

EXHIBIT B

David Counciller

Trial Designations



Counciller, David

2025-05-23

Counciller, David

2025-05-23

Defense Designations

00:12:49

Plaintiff Designations

00:05:34

TOTAL RUN TIME

00:18:23



ID: DCounciller-

2025-05-23	Counciller, David	Page 1	2025-05-23	Counciller, David	Page 2
1	IN THE UNITED STATES DISTRICT COURT		1	APPEARANCES:	
2			2	LITTLETON JOYCE UGHETTA & KELLY LLP	
3	Civil action No: 1:23-cv-00327-JDL		3	2460 N. Courtenay Pkwy, Suite 204	
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5			5	Attorney for Defendant Sig Sauer, Inc.	
6			6		
7			7	BY: JEFFREY RUSSELL, ESQUIRE	
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15			15		
16			16		
17	for the State of Maine, via Zoom videoconference,		17		
18	notice given.		18		
19			19		
20			20		
21			21		
22			22		
23			23		
24			24		
25			25		
2025-05-23	Counciller, David	Page 3	2025-05-23	Counciller, David	Page 4
1	INDEX		1	(This deposition was taken before Debra J. Fusco,	
2			2	Notary Public, via Zoom videoconference, on May 23,	
3			3	2025, beginning at 1:10 p.m.)	
4			4	VIDEOGRAPHER: We are now on the record.	
5			5	The time is 1:10 p.m. Eastern Time on May 23, 2025.	
6			6	This begins the videoconference deposition of David	
7			7	Counciller taken in the matter of David Alan Cole and	
8	EXHIBITS		8	Kimberly Cole versus Sig Sauer, Incorporated. The case	
9			9	number is 1:23-cv-00327-JDL, and is filed in the United	
10	NONE		10	States District Court for the District of Maine.	
11			11	My name is George Ellis, I am your remote	
12			12	videographer. Our court reporter is Debra Fusco, and we	
13			13	are representing Esquire Deposition Solutions.	
14			14	Counsel, please state your name and who you	
15			15	represent, after which the court reporter will swear in	
16			16	the witness.	
17			17	MS. DENNISON: Kristen Dennison from	
18			18	Littleton Joyce Ughetta & Kelly, and I represent Sig	
19			19	Sauer, Inc.	
20			20	MR. HAAZ: Sam Haaz on behalf of David and	
21			21	Kimberly Cole.	
22			22	MR. RUSSELL: I'm also here, Jeff Russell,	
23			23	Verrill Dana, LLP on behalf of Sig Sauer.	
24			24	MS. DENNISON: Erica Esposito from Sig Sauer	
25			25	is also present.	

2025-05-23	Counciller, David	Page 5	2025-05-23	Counciller, David	Page 6
1	(The deponent was administered the oath by the Notary		1	for the record to make sure everything is audible.	
2	Public.)		2	We can only have one person speaking at a time.	
3	DAVID COUNCELLER, after having been		3	In the normal course of conversation, it is easy to	
4	duly sworn by the Notary Public,		4	anticipate what my question is and begin your response	
5	was deposed and testified as		5	before I have finished my full question. For purposes	
6	follows:		6	of the record today, I would ask that you allow me to	
7	EXAMINATION		7	completely finish my question before you begin your	
8	BY MS. DENNISON:		8	response, and I will allow you to completely finish your	
9	Q. Good afternoon, Mr. Counciller. My name is		9	response before I begin my next question, okay?	
10	Kristen Dennison. I represent Sig Sauer in an action		10	A. Okay.	
11	that's been brought against it by David and Kimberly		11	Q. Great. We are going to try to be as quick as we	
12	Cole. We are here today pursuant to a subpoena that my		12	can today with you. That said, if you need a break at	
13	office issued to you. Is that your understanding?		13	any point in time, please let us know that, and we'll be	
14	A. Yes, ma'am.		14	happy to accommodate you.	
15	Q. Okay. And thank you for your appearance here		15	A. Well, I would really like to go put my ear plugs	
16	this morning.		16	in at the moment.	
17	Have you ever had your deposition taken before?		17	Q. If you want to go do that, you can step away and	
18	A. Not like this.		18	go put your earplugs in, that's fine.	
19	Q. Okay. Let me give you a few brief instructions		19	A. I think I will because this is kind of new to me	
20	before we begin. We do have a court reporter		20	and I'm -- I need to sharpen up my hearing here real	
21	transcribing everything here today so I need to make		21	quick so I'll be right back.	
22	sure that all of your responses to my questions are		22	MS. DENNISON: Let's go off the record a	
23	verbal. In particular, I need an audible yes for a no		23	moment.	
24	as opposed to a nod or a shake of the head. If you		24	VIDEOGRAPHER: Going off the record, the	
25	forget, don't worry about it, one of us will correct it		25	time is 1:13.	
2025-05-23	Counciller, David	Page 7	2025-05-23	Counciller, David	Page 8
1	(OFF RECORD)		1	Q. Okay, great. And the oath that you took today is	
2	VIDEOGRAPHER: Back on the record. The time		2	the same as if you were testifying in a court of law.	
3	is 1:14.		3	Do you understand that?	
4	MS. DENNISON: Okay.		4	A. Yes.	
5	BY MS. DENNISON:		5	Q. Great. Mr. Counciller, are you taking any	
6	Q. Mr. Counciller, can you hear -- can you hear		6	medications that would prevent you from testifying	
7	everything okay now?		7	truthfully and honestly to the best of your	
8	A. Yes.		8	recollection?	
9	Q. Great. So I'm going to ask you some questions		9	A. No.	
10	about an unintentional discharge that I understand you		10	Q. All right. Did you review any documents to	
11	experienced a little over 10 years ago, and I need to		11	prepare for your deposition here today?	
12	have you answer my questions truthfully and honestly to		12	A. No.	
13	the best of your recollection, okay?		13	Q. Can you please state your full name?	
14	A. Yes, ma'am.		14	A. David Joe, is J-O-E, Counciller,	
15	Q. Great. If you don't hear my question, please let		15	C-O-U-N-C-E-L-L-E-R.	
16	me know that, and I will repeat it. If you don't		16	Q. Where are you currently located, Mr. Counciller?	
17	understand my question, which is quite possible, please		17	A. Connersville, Indiana.	
18	let me know that, and I will be happy to rephrase it,		18	Q. Have you ever been known by any other names?	
19	okay?		19	A. No.	
20	A. Okay.		20	Q. Do you reside in Connersville, Indiana?	
21	Q. If you answer one my questions, I am going to		21	A. Yes.	
22	assume that you heard my question, that you understood		22	Q. Mr. Counciller, have you experienced an	
23	my question, and that you answered it truthfully and		23	unintended discharge with a Glock pistol?	
24	honestly to the best of your recollection; is that fair?		24	A. Yes.	
25	A. Sure, yup.		25	Q. When did you experience an unintended discharge	

2025-05-23	Counciller, David	Page 9	2025-05-23	Counciller, David	Page 10
1	with a Glock pistol?		1	A. On the Glocks.	
2	A. It was in January, 2014.		2	Q. Okay, great. And the Glock 23 pistol that you	
3	Q. What kind of Glock was involved?		3	were carrying in January of 2014, did that have a little	
4	A. It was a Glock 23.		4	blade or -- in the trigger?	
5	Q. Was that your Glock 23?		5	MR. HAAZ: Objection --	
6	A. It was an issued weapon by my police department.		6	A. Yes, we call it a little dog ear.	
7	Q. What police department?		7	BY MS. DENNISON:	
8	A. Connersville City Police Department.		8	Q. You called it a dog --	
9	Q. How long have you carried that Glock 23?		9	A. If you'd like -- if you would like, ma'am, I	
10	A. Oh, several years. I was a -- I was the chief of		10	could probably pull it up and show it to you.	
11	police at the time, and we had carried Glock -- Glocks.		11	Q. Do you still have that pistol?	
12	The -- the -- the Glock 23 was a little shorter model		12	A. I don't have that one, but I have another one, a	
13	than the 22 that the original officers would carry.		13	Generation 4, which is the same thing, just a newer	
14	Q. As chief of police -- was that for Connersville		14	model. It's the same dog ear, same trigger, everything.	
15	Police Department?		15	Q. Okay. All right. And in January of 2014, can	
16	A. Yes, it was.		16	you tell me the circumstances surrounding your	
17	Q. As chief of police for the Connersville Police		17	unintended discharge?	
18	Department, did you select the Glock 23 pistol?		18	A. Well, I had stopped into a local gun shop here in	
19	A. No. It's -- it was done several years -- that		19	Connersville, and the owner of the place is a friend of	
20	was like our -- I think that was our second issue. I		20	mine, and there was another Glock, it was a 380, a	
21	think the first time we were issued back in '99,		21	little bit smaller, and it was like a newer version.	
22	something like that. Then we carried -- I got the		22	And I was looking at it, and I pulled my weapon out,	
23	Generation 2, then we went to the Generation 3. And		23	carefully, and I was comparing the size, basically, for	
24	since then, they go to 4 and 5.		24	being carried for undercover or just plainclothes to	
25	Q. All Glocks?		25	where it's concealed, and I was comparing it with this	
2025-05-23	Counciller, David	Page 11	2025-05-23	Counciller, David	Page 12
1	-- with mine. And afterwards, I handed the weapon back,		1	thousand incidents, that's what he told me, involving	
2	the weapon I was looking at, I handed it back to the		2	something similar with drawstrings. So, any way, it --	
3	owner of the gun shop. And I went to holster my weapon		3	it grazed -- grazed my upper leg right underneath my	
4	again in my holster, and I noticed when I put it in		4	right leg and buttocks and -- and it -- just a graze.	
5	there, it was a little snug more so, but I had a jacket		5	And so -- but did -- did catch me off guard and I -- you	
6	on, a heavy jacket. And when -- I should say I had a		6	know, the Glock is a good weapon, but it's a very	
7	jacket, but it seemed like I had -- I had a fleece		7	dangerous weapon because they -- that little -- little	
8	jacket and -- on underneath the coat. Anyway, so when I		8	dog ear and that trigger right there is -- they want to	
9	went to pull up my fleece to -- to hide the weapon, I		9	call it a safety. It's not a safety, it's an activation	
10	had a -- my drawstring -- I had a drawstring that was		10	switch because it's not gonna go off until something or	
11	hanging down on my right side, and I'm right-handed, and		11	a finger or something else is there, and it has to pull	
12	it's a right-handed holster. Somehow it got into that		12	it flush with the trigger itself, then it will	
13	trigger guard. And when I went and pulled my jacket		13	discharge. There's not any other safety -- safety	
14	with my right hand, on my right side, I went to pull it		14	features with the Glock other than that, either with	
15	up to -- to -- to put my jacket over the weapon, the		15	being closed with no weapon -- no rounds in it or -- or	
16	drawstring was in there and -- and it was caught in		16	it's jacked open with no rounds in it. But that's the	
17	there. And when I pulled up with that jacket with that		17	only safety feature it has, and I'm not real -- I never	
18	drawstring, it discharged. And there was a video that I		18	was real sure about that.	
19	had -- did with Channel 6 news out of Indianapolis, and		19	MR. HAAZ: I'm going to just object and move	
20	I believe -- I was really just concerned about people		20	to strike all the parts of the answer that relate to	
21	with clothing and carrying weapons. It happens -- this		21	hearsay, and particularly with what the reporter said	
22	happens a lot of (sic) police officers, and I imagine		22	and, you know, what he doesn't have personal knowledge	
23	it's happened with other people also. I don't know, but		23	of.	
24	I know that the reporter did a -- did a investigation on		24	And, sir, there may be objections from time	
25	that, and at the time he -- he had roughly around a		25	to time. They're just for Ms. Dennison and I to make a	

2025-05-23	Counciller, David	Page 13	2025-05-23	Counciller, David	Page 14
1	record, that's all they are. So now that that's on the		1	VIDEOGRAPHER: Off the record. The time is	
2	record, I turn the question back over to Kristen and		2	1:24.	
3	apologize for any interruption.		3	(OFF RECORD)	
4	BY MS. DENNISON:		4	VIDEOGRAPHER: Back on the record. The time	
5	Q. Thank you, Mr. Counciller. I'm going to ask you		5	is 1:25.	
6	a few questions to break that down a little bit, okay?		6	BY MS. DENNISON:	
7	A. Sure.		7	Q. Okay, Mr. Counciller, while we went off the	
8	Q. Let's start with, what kind of holster were you		8	record, you went and retrieved the holster that you were	
9	using at the time?		9	wearing on the day of the unintended discharge. Can you	
10	A. It was a leather holster. It didn't have a		10	put that holster up to the camera, to the video feed, so	
11	strap. It just sat as -- as kind of like -- it was a		11	that we can see it?	
12	worn leather. I mean it's a -- fit comfortable and		12	A. Yes, (indicating). As you see, it's a black	
13	everything, but it was just really sitting down in -- in		13	leather. It's open here at the top and the -- I'm half	
14	the holster itself, and it was leather.		14	blind too. Anyway --	
15	Q. Okay. The holster -- do you remember the brand		15	THE WITNESS: Honey?	
16	of the holster?		16	UNIDENTIFIED ATTENDEE: Yes.	
17	A. I got it -- I got it upstairs. I can --		17	THE WITNESS: Can you read that -- the make	
18	Q. You have the actual holster upstairs?		18	of this holster? You might want to turn a light on or	
19	A. Yes.		19	something.	
20	Q. Would you -- would you mind getting that, and		20	UNIDENTIFIED ATTENDEE: Glock.	
21	then we can take a --		21	THE WITNESS: No, that's -- that's a Glock.	
22	A. Sure.		22	UNIDENTIFIED ATTENDEE: Masters's --	
23	MS. DENNISON: All right. Let's go off the		23	Masters's Holder (sic).	
24	record for a moment.		24	THE WITNESS: It's a what?	
25	THE WITNESS: Be right back.		25	UNIDENTIFIED ATTENDEE: Glock The Masters's	
2025-05-23	Counciller, David	Page 15	2025-05-23	Counciller, David	Page 16
1	Holder (sic).		1	Q. Thank you. All right, okay. So, Mr. Counciller,	
2	THE WITNESS: Masters's Holder (sic).		2	that was the holster. I'm going to ask you about the	
3	UNIDENTIFIED ATTENDEE: 17, 22, 31.		3	information you gave about -- you said he told you about	
4	THE WITNESS: Okay.		4	a thousand instances of similar issues with drawstrings.	
5	UNIDENTIFIED ATTENDEE: It's a Glock holder		5	My question for you is, who is the "he" to which you	
6	(sic).		6	were referring?	
7	A. I'll -- that's -- I don't know if you can see		7	UNIDENTIFIED ATTENDEE: Rafael Sanchez.	
8	that or not, but that's the make of it.		8	A. Rafael San -- Sanchez.	
9	BY MS. DENNISON:		9	BY MS. DENNISON:	
10	Q. Okay. And so that is a Glock --		10	Q. And who is Rafael Sanchez?	
11	A. Glock --		11	A. He is a reporter for -- was a reporter for	
12	Q. Glock Masters's Holster?		12	Channel 6 news. He's on a -- another network up in	
13	A. Yes.		13	Indianapolis also now. I think it's -- I don't know	
14	Q. 17, 22, 31?		14	what the -- I don't know what it is right now.	
15	UNIDENTIFIED ATTENDEE: 77.		15	UNIDENTIFIED ATTENDEE: He's an	
16	A. I think it was 77 she said.		16	investigative reporter. He's --	
17	BY MS. DENNISON:		17	THE WITNESS: He's what?	
18	Q. Oh, 77, 33 -- or 77, 22, 31.		18	UNIDENTIFIED ATTENDEE: He's an	
19	UNIDENTIFIED ATTENDEE: Yeah.		19	investigative --	
20	BY MS. DENNISON:		20	A. He's an investigative reporter with --	
21	Q. And --		21	THE WITNESS: Who's he with now?	
22	A. Yeah.		22	UNIDENTIFIED ATTENDEE: WRTV ABC.	
23	Q. Great. And, for the record, who is she? Is		23	A. WR --	
24	that your wife?		24	MR. HAAZ: Kristen, I'm going to object to	
25	A. My fiancée. Her name is Shannon.		25	any assistance with his testimony.	

2025-05-23	Counciller, David	Page 17	2025-05-23	Counciller, David	Page 18
1	MS. DENNISON: Yeah.		1	Q. And when he told you that he was aware of a	
2	MR. HAAZ: Mr. Counciller, I understand you		2	thousand instances of similar issues, what -- did you	
3	haven't done this before, but the rules don't allow for		3	have an understanding as to what he meant by "similar	
4	you to consult with others or have side conversations so		4	issues"?	
5	--		5	MR. HAAZ: Object to form.	
6	THE WITNESS: Okay.		6	BY MS. DENNISON:	
7	MR. HAAZ: You're just going to have to		7	Q. You can answer.	
8	testify to the best of your recollection.		8	A. I can answer?	
9	MS. DENNISON: Yeah, and it's okay. If you		9	Q. Yes, you may answer.	
10	don't -- and I'm not sure --		10	A. Just that -- I'm not too sure -- I'm not too	
11	BY MS. DENNISON:		11	sure. I know he interviewed a few people that's had	
12	Q. I think I forgot this instruction, Mr.		12	similar situations like mine, but I don't know who they	
13	Counciller, so that's on me. But if you don't know the		13	were, all this type of thing or anything else. He just	
14	answer to a question, please just tell me that -- that		14	did an investigation, and I don't know where he come up	
15	you don't know, and that's fine, okay?		15	with a thousand either.	
16	A. Okay.		16	Q. Do you have any information as to whether those	
17	Q. Thank you so much. All right. So -- so Rafael		17	thousand instances involved Glock pistols or a variety	
18	Sanchez told you that he knew of a thousand instances of		18	of pistols or something else?	
19	similar issues; is that what you testified to?		19	MR. HAAZ: Object to form.	
20	MR. HAAZ: Objection.		20	BY MS. DENNISON:	
21	A. That's what he told me, you know, back then, and		21	Q. You can answer.	
22	I don't think he contacted with everyone that -- that --		22	A. Several were Glocks, and then I think he told me	
23	but he did get ahold of some that have had dis --		23	one was a Sig.	
24	accidental discharges.		24	Q. Okay.	
25	BY MS. DENNISON:		25	A. But I don't know the circumstances of it.	
2025-05-23	Counciller, David	Page 19	2025-05-23	Counciller, David	Page 20
1	Q. Okay. And you can ignore both of us if we say		1	have some questions for you on that, but I want to	
2	objection to form, you can just ignore us and answer the		2	confirm that this is what you saw; okay, Mr. Counciller?	
3	question. I'm sure I might do the same when Mr. Haaz		3	THE WITNESS: Sure.	
4	asks you some questions. Again, that's just to --		4	(Whereupon, a video is being played.)	
5	that's just for us to deal with later, but you don't		5	MR. HAAZ: Kristen? Kristen.	
6	have to worry about it, okay?		6	(Whereupon, a video is being played.)	
7	A. Okay.		7	VIDEOGRAPHER: Excuse me?	
8	Q. Thanks. All right, so -- all right, so I'm going		8	MR. HAAZ: Kristen?	
9	to go ahead and I'm going to show you what I believe is		9	MS. DENNISON: Yes.	
10	the Channel 6 news report. So I'm going to go ahead and		10	MR. HAAZ: I can't see the video. Can	
11	-- well, let me ask you first: Did you see the Channel		11	anyone else not see it?	
12	6 news report about your incident?		12	MS. DENNISON: Oh, my God.	
13	A. Yes.		13	VIDEOGRAPHER: No.	
14	Q. Okay. I'm going to go ahead and play the video.		14	MS. DENNISON: I forgot to share it. How	
15	MS. DENNISON: I'm going to play the whole		15	about I share it.	
16	video, Sam, and I understand that there will be some		16	Thank you, Sam. Thank you for interrupting	
17	hearsay played in here that you will have an objection		17	before I went any further with that.	
18	to. You can note that now, or you can note it later,		18	Let me share the video. I got ahead of	
19	okay?		19	myself, and we'll start over. I'm going to start from	
20	MR. HAAZ: Yeah, to the extent that the		20	the beginning. My apologies. Can you all see it now?	
21	video will be played or any portion of this video will		21	THE WITNESS: Yes.	
22	be played at trial, I mean we'd object to the entire		22	(Whereupon, a video is being played.)	
23	video coming in.		23	MS. DENNISON: Okay.	
24	MS. DENNISON: Understood. So for now, I'm		24	BY MS. DENNISON:	
25	just going to play the Channel 6 news video because I'll		25	Q. Mr. Counciller, is that the ABC News report that	

2025-05-23	Counciller, David	Page 21	2025-05-23	Counciller, David	Page 22
1	you recall previously seeing?		1	another accidental discharge in 1999?	
2	A. Yes.		2	A. I did, yes.	
3	Q. Okay. And that was reported by Rafael Sanchez,		3	Q. What weapon was involved with that accidental	
4	that's what you were referencing a little bit ago; is		4	discharge in 1999?	
5	that correct?		5	A. It was a 380 called a Grendel. It's a -- it's --	
6	A. Yes.		6	it's another -- well, that was totally my fault. The	
7	Q. Okay. There were some other individuals		7	gun was defective, the retaining pin that would hold up	
8	mentioned in that news report. Did you ever speak with		8	the receiver to the lower part of the receiver kept --	
9	any of the other individuals that reported having a		9	every time you'd shoot it, it would work its way out.	
10	discharge with a drawstring from their jacket?		10	And so my son had it for a while, and he told me it was	
11	A. No.		11	defective and what it was doing, and so I said okay. So	
12	Q. Okay. Have you ever spoken with anybody else who		12	I put it in a box, and he was -- I was gonna take it, at	
13	experienced an accidental discharge that you believed		13	the time, to a local gunsmith and have him look at it.	
14	was similar to yours?		14	Well, it's -- the characteristics of that gun was that	
15	A. No.		15	you have to open it up, and you didn't have a magazine	
16	MR. HAAZ: Object to form.		16	that went up through the bottom of the handle. You	
17	BY MS. DENNISON:		17	opened it up, and then you fed it down into the handle.	
18	Q. Okay. Have you ever seen any other accidental		18	And when you let it go, it automatically would put one	
19	discharges besides yours?		19	up -- put a round up into the barrel, up to what we call	
20	A. On a video one time, something similar happened		20	the pipe. Well, when my son gave it to me, it was in	
21	on a range with an individual, but I don't remember		21	two pieces with the pin. And -- and like I said, I was	
22	anything about where it happened or who it was or		22	doing some laundry one night, and I come across that	
23	anything else.		23	box, and I looked at that gun. I said, yeah, I need to	
24	Q. There was a reference within the news report to		24	take it up to the local gunsmith and get it fixed. So I	
25	another accidental discharge from 1999. Had you had		25	see that the handle was separated from the upper	
2025-05-23	Counciller, David	Page 23	2025-05-23	Counciller, David	Page 24
1	receiver and -- the slide -- and I put all -- I unloaded		1	depiction -- in the ABC video that we just played, did	
2	it where the handle is. Because, like I said, you fed		2	you see a depiction of your accidental discharge from	
3	it down at the -- in the bottom, you didn't have a		3	2014 with the Glock?	
4	magazine. So I flipped all them rounds out of it. I		4	MR. HAAZ: Object to form.	
5	went to put it back together and when I did, I -- if I		5	A. Yes. Yes. You're asking me about -- about the	
6	can put my hand up here, I had it here like this, and I		6	video?	
7	went to pull it together to put this pin in to hold it		7	BY MS. DENNISON:	
8	-- to hold it together to show the gunsmiths how -- what		8	Q. Yes.	
9	-- what the malfunction was on it. And in my		9	A. Yeah.	
10	carelessness of not thinking -- and, like I said, if you		10	Q. And if I share my screen right now, I have the	
11	lo -- load it and you let it go forward, it		11	video freeze framed here. Is this you on the -- on the	
12	automatically -- one goes up into the barrel. I didn't		12	right side of the counter with the hat on?	
13	drop that barrel out and see if there was a round up in		13	A. Yup, that's me.	
14	that barrel. And when I shoved it together like this,		14	Q. And this was the gun shop that you were in at the	
15	it -- it went back and hit the firing pin, and		15	time?	
16	discharged in my hand. And I don't know if you can see		16	A. Yes.	
17	it or not, but it -- it's right here, it's -- that's an		17	Q. Okay. And I'm going to go a little bit further	
18	exit wound, and that was -- or, excuse me, that was the		18	with it to where the discharge was, and I'm going to	
19	entrance wound, this is the ex -- ex -- exit wound.		19	just put it on without sound. So I'm going to share it	
20	And -- and, yeah, that was -- and I knew right after it		20	-- my screen again. And on the screen, is this the --	
21	happened, I -- that was carelessness on my part. I		21	is this the gun shop that you were in, Wolf's Gun Shop?	
22	should have -- I should have dropped that barrel down		22	A. Yes.	
23	because that was the -- that's the way the gun was		23	(Whereupon, a video is being played.)	
24	designed, and it's nobody's fault but my own.		24	Q. Okay. This video that's playing right now, do	
25	Q. Okay. And in the video, did you see a		25	you know the video that just played moving up into the	

2025-05-23	Counciller, David	Page 25	2025-05-23	Counciller, David	Page 26
1	gun shop, was that video that you had taken or that		1	firearm that's being exchanged between the two of you?	
2	somebody else had taken?		2	A. Yes, he was showing me this other gun that I	
3	A. That was what Ra -- the cameraman from Rafael		3	asked to look at.	
4	Sanchez. His cameraman, I think, shot that.		4	Q. Okay. I'm going to keep playing it.	
5	Q. Okay.		5	(Whereupon, a video is being played.)	
6	A. If you could notice, I'm in -- I'm in uniform		6	Q. So is this you looking at that other gun?	
7	there.		7	A. Yes.	
8	Q. Okay. And this -- this portion of video where		8	Q. All right. And now we have gone to another video	
9	you're walking into the gun shop, was that a video taken		9	that is not the video of your incident for a little bit.	
10	on the day of the incident or at some other time?		10	I'm going to stop it again and start playing it at	
11	A. No, that was after the fact.		11	47 seconds.	
12	Q. Okay.		12	(Whereupon, a video is being played.)	
13	A. When he was doing the story.		13	Q. Is that you again in this video?	
14	Q. So I'm going to keep playing right now.		14	A. Yes.	
15	(Whereupon, a video is being played.)		15	Q. And are you looking at that weapon from the store	
16	Q. Now, I've just stopped this video at 34 seconds.		16	that you wanted to take a look at?	
17	Is this video of you on the day of the accident?		17	A. Yes.	
18	A. Yes.		18	Q. Okay. I'm going to hit play.	
19	Q. Do you know where this video was taken from?		19	(Whereupon, a video is being played.)	
20	A. That -- that was a security camera that Mr. Wolf,		20	Q. Now, I just stopped it at 51 seconds. Do you	
21	the owner of the gun shop, had.		21	know what you were doing right there?	
22	Q. Okay. I'm going to go ahead --		22	A. Yes.	
23	(Whereupon, a video is being played.)		23	Q. What were you doing?	
24	Q. Right here, is he -- are you -- let me strike		24	A. I'm pulling out my weapon to compare it with the	
25	that. Right here, what we see on the camera, is there a		25	other one.	
2025-05-23	Counciller, David	Page 27	2025-05-23	Counciller, David	Page 28
1	Q. Okay. And then right now, are you putting that		1	was there pulling up on the jacket.	
2	back into your holster?		2	Q. Okay. Now, there were portions of this video in	
3	A. Yes.		3	which there were statements made by you. Do you recall	
4	Q. And that was the holster that you showed us a		4	seeing that?	
5	moment ago?		5	A. Pardon?	
6	A. Yes.		6	Q. Well, before I get to that, let me ask you, the	
7	Q. That was an outside the waistband holster?		7	portions of the video that I just showed you depicting	
8	A. Yes.		8	your discharge incident, are those true and accurate	
9	Q. Okay. So you had it clipped on your right hip?		9	representations of what happened when your Glock 23	
10	A. Yes.		10	discharged when you were putting it into your holster in	
11	(Whereupon, a video is being played.)		11	January of 2014?	
12	Q. And then what are you doing right there?		12	MR. HAAZ: Object to form.	
13	A. I'm -- I got my jacket, and I'm pulling it upward		13	BY MS. DENNISON:	
14	to put it -- to conceal it.		14	Q. You can answer.	
15	(Whereupon, a video is being played.)		15	A. Yes.	
16	Q. Okay. And what just happened right there? I've		16	Q. Okay. I'm going to stop sharing for a moment.	
17	stopped it at 1 minute and 3 seconds into the video.		17	Now, you gave an interview as well; is that	
18	What just happened?		18	correct?	
19	A. I felt like when -- when I -- when I put it in my		19	A. (No response.)	
20	holster, it didn't go in real smoothly, like I had some		20	Q. To Rafael Sanchez?	
21	kind of resistance.		21	A. Yes.	
22	Q. Okay. And then what happened?		22	Q. Why did you give an interview to Rafael Sanchez	
23	A. Well, then after I -- I felt like it was in		23	of this incident?	
24	there, then I went to pull up on my jacket and -- to		24	A. I -- I had a concern like the other officer in	
25	conceal it, and it -- and then it discharged as my hand		25	that one video. Of course I didn't see that video until	

2025-05-23	Counciller, David	Page 29	2025-05-23	Counciller, David	Page 30
1	later but -- until this -- this program came out, but I		1	trigger guard area, that blade or tab trigger on the	
2	had a concern about if someone gets a -- something stuck		2	Glock did not prevent your gun from discharging; is that	
3	in their trigger guard, whether it be a drawstring or		3	correct?	
4	keys or whatever people might carry and if something can		4	A. Yes.	
5	worm their way into a trigger guard and maybe -- they		5	MR. HAAZ: Object to form.	
6	might be in Walmart or someplace bending over to pick up		6	BY MS. DENNISON:	
7	a can of oil off the bottom shelf or something and they		7	Q. I've got to ask that again because you said "yes"	
8	move or something. And then if something like that		8	over his "object to form." So I'm just going to ask you	
9	happened, if something was in there and it discharged		9	one more time, if you could just pause and let Mr. Haaz	
10	and the barrel was pointing backwards or something when		10	do his object to form, and then do your answer.	
11	-- when you're bent over or something like that, just an		11	MR. HAAZ: I'll tell you what. I'll just	
12	awareness thing to let people know that certain guns,		12	note my objection now, and you can ask him.	
13	the way they're designed and everything, they can be		13	MS. DENNISON: Thanks, Sam.	
14	dangerous. And -- and Glocks -- and I -- and I -- I		14	BY MS. DENNISON:	
15	like Glock, they're good shooters and everything else,		15	Q. Okay. So during this discharge incident that we	
16	but there's something you need to know about them, and		16	just saw, that tabbed trigger on the Glock pistol did	
17	they're -- they're -- they're (sic) got a dangerous		17	not prevent a foreign object from discharging your	
18	trigger guard there -- excuse me, a trigger that -- that		18	pistol when your finger wasn't on the trigger; is that	
19	that activation switch, slash, safety is there, and if		19	correct?	
20	it gets pushed down somehow with not your finger but		20	A. Yes.	
21	with anything else and it gets flush, then you could		21	Q. Now, you were chief of police at the time of this	
22	accidentally have it discharge, and it was my concern for		22	incident. How long had you been in law enforcement?	
23	the public.		23	A. I come on in June of 1980.	
24	Q. So in your instance as you were holstering that		24	Q. So in 2014, you were -- in January of 2014, you	
25	gun and an object other than your finger got into that		25	were approaching 34 years of service with law	
2025-05-23	Counciller, David	Page 31	2025-05-23	Counciller, David	Page 32
1	enforcement?		1	A. (Complying.)	
2	A. Yes.		2	Q. Thanks very much. And so there are three	
3	Q. Were you with Connersville Police Department that		3	numbers. It looks to me like, and you'll correct me if	
4	entire 34 years?		4	I'm wrong, that that holster indicates it's designed for	
5	A. Yes. I spent four years in the military police		5	three Glock models, there are three numbers after Glock,	
6	back in the 70s.		6	right?	
7	Q. Four years?		7	A. Yes.	
8	A. Yes.		8	MS. DENNISON: Objection to form.	
9	Q. What branch?		9	BY MR. HAAZ:	
10	A. United States Army.		10	Q. Okay. And what are the numbers?	
11	Q. Thank you for your service.		11	A. Well, technically that is the same -- same frame	
12	What had you carried in your four years in		12	as -- a lot of the Glocks are the same. The calibers	
13	military police?		13	wouldn't be --	
14	A. A 1911 .45, and they were -- they were purc --		14	Q. Sir, I'm just asking what are the three numbers	
15	they were Colts and Ithacas and Remingtons. The		15	that are written on the holster.	
16	government -- all the 1911s were all -- all the same		16	A. Well, I'm having a little trouble looking at them	
17	everything except they had several manufacturers that		17	so just give me -- bear with me because I --	
18	made them, but they were all interchangeable in parts.		18	Q. Take your time.	
19	MS. DENNISON: All right. Those are all the		19	A. I -- I can't make 'em out, sir. I'm looking at	
20	questions I have for you, sir. Mr. Haaz will have some		20	them with a magnifying glass -- what's -- what's -- I'm	
21	questions for you as well, so I'll turn it over to him.		21	-- somebody else has got better eyesight than I got.	
22	EXAMINATION		22	Okay, 7 -- 77, 22 and a 31. That must be the model	
23	BY MR. HAAZ:		23	numbers. I'm familiar with the 22.	
24	Q. Mr. Counciller, could you hold up that holster		24	Q. Okay. So just so I understand, it's -- that	
25	again so I could see the -- the indent on the leather?		25	holster says Glock, and then the numbers are 77 and then	

2025-05-23 Counciller, David Page 33

1 --

2 A. It's correction to 17 --

3 Q. Okay, so --

4 A. -- 22 and 31.

5 Q. All right. So --

6 A. The 17 is a 9 millimeter, but it's the same

7 frame. And also, just to clear it here, the 22 is -- is

8 the longer version of the 23. The 17 is a -- is --

9 these are like for 9 millimeters and 40s. So the 22 and

10 23 is -- the .40 caliber difference there, they're .40

11 cal. Then the 9 millimeter is 17 and a 19. And so

12 they're the same frame and all this. There's -- also

13 another number is 31, and 31 I don't know -- it -- it's

14 the same frame, but it could be a different length of

15 the barrel or whatever. I don't -- I'm not sure.

16 Q. Sure, okay. And so just so I understand, the

17 numbers that are stamped on the holster you were using

18 that day under the word "Glock" are 17, 22 and 31?

19 A. Yes.

20 Q. And on the date of the incident, you were not

21 carrying a Glock 17, a Glock 22 or a Glock 31?

22 A. No.

23 Q. How long has Connersville PD carried Glock

24 pistols for?

25 A. They started carrying them, I think, about '99,

2025-05-23 Counciller, David Page 35

1 have the hammer down -- it's a double action, a total

2 different feature. And they say safety features, just

3 like the 1911 in the Army back in the day, they talk

4 about, you know, being -- being open, cocked open,

5 that's a safety feature. Down with nothing in it is a

6 safety feature. For instance -- hold on just a second.

7 They're -- they're just a lot safer gun, and so was the

8 .45. They didn't have the little -- little dog ear or

9 the little trigger in the trigger, so to speak.

10 Q. And why is it your opinion that the Beretta was a

11 safer gun than the Glock?

12 A. Because of the safety features it had.

13 Q. Okay. And did the Glock have fewer safety

14 features than the Beretta?

15 A. Yes.

16 Q. And is that because the Glock did not have a

17 manual safety that would prevent the trigger from

18 pulling?

19 MS. DENNISON: Objection to form.

20 A. True, that -- that's -- that's -- yeah, it --

21 they're tot -- two different guns, totally, with the --

22 the whole thing is totally different.

23 BY MR. HAAZ:

24 Q. All right. And if you had had a pistol on the

25 date of the incident that had a manual safety and it was

2025-05-23 Counciller, David Page 34

1 1999.

2 Q. And you're still with Connersville Police

3 Department?

4 A. No, sir. I've been retired for 10 years.

5 Q. Congratulations. So from '99 until about 2014,

6 were you aware of any other unintended discharges with

7 Glocks from trigger contact by a foreign object like

8 yours?

9 A. No.

10 Q. Prior to 1999, what did Connersville PD carry?

11 A. Berettas, 92FS.

12 Q. And am I correct that the Beretta 92 had a manual

13 safety?

14 MS. DENNISON: Objection to form. You can

15 answer.

16 BY MR. HAAZ:

17 Q. Let me rephrase the question because there's an

18 objection.

19 What safeties did the Beretta 92 have, if any?

20 A. They had like five different safety features.

21 They had a -- a lock that would -- would disconnect the

22 trigger totally, and then you could flip the -- flip the

23 back lever and it would -- it would go back into a fire

24 position. You could carry it unloaded -- of course if

25 it's loaded, it could -- have it that way, or you can

2025-05-23 Counciller, David Page 36

1 engaged, do you believe your unintended discharge would

2 have happened?

3 A. No.

4 MS. DENNISON: Object to form.

5 BY MR. HAAZ:

6 Q. Would it have been safer if your Glock pistol had

7 an external manual safety?

8 A. Possibly.

9 Q. If it were engaged?

10 A. Yes.

11 Q. I want to talk briefly about the -- the incident

12 itself. At the -- on the date of the incident, this was

13 January 18th of 2014, were you still working at

14 Connersville Police Department or were you retired?

15 A. What -- could you give that date again?

16 Q. Sure. It looks like from the security camera,

17 the date of this incident was January 18th of 2014.

18 A. Okay.

19 Q. On that day, were you still employed with the

20 Connersville Police Department?

21 A. Yes, I was the police chief.

22 Q. And how long after that did you retire?

23 A. I retired in the end of 2015.

24 Q. Okay. So were you on duty at the time of this

25 incident?

2025-05-23 Counciller, David Page 37

1 A. No.

2 Q. All right. Were you carrying your duty weapon?

3 A. Yes.

4 Q. And was the holster you were using that day your

5 duty holster or personal holster?

6 A. Personal holster.

7 Q. All right, so that wasn't issued by the

8 Connorsville Police Department?

9 A. No.

10 Q. Where did you buy it?

11 A. Honestly, I think I bought it at -- at a place

12 called Jenkins. It's a -- in Indianapolis. It's a

13 police supply store, and it was a used -- they used to

14 have a big table of used leather or camo pouches or

15 handcuff pouches. Just whole -- a lot of -- a lot of

16 leather and some -- some plastic stuff that -- I think I

17 bought it up there at -- a one-time use.

18 Q. All right. So fair to say that the holster you

19 were using on the date of the incident was not purchased

20 from Glock or anything associated with a Glock store or

21 --

22 A. No, no.

23 MS. DENNISON: Objection to form.

24 BY MR. HAAZ:

25 Q. And is it your understanding that the stamping on

2025-05-23 Counciller, David Page 39

1 you agree?

2 A. Yes.

3 Q. All right. And then about 56 seconds, you

4 re-holster your Glock 23, right?

5 A. Yes.

6 Q. And you previously testified that when you

7 re-holstered it, you felt resistance?

8 A. Yes.

9 Q. What do you mean?

10 A. It just didn't -- I didn't know if I had my

11 jacket -- you know, that there was -- sliding down on

12 the side. It just -- it wasn't -- just moving in there

13 real slow and so I just -- then it -- then it went, it

14 went in. And so that's when I -- you know, after that,

15 I went to pull my jacket up and put it underneath my

16 jacket again, and that's when it discharged.

17 Q. When you felt that resistance, it doesn't appear

18 on the video that you kind of did a check to see what

19 that resistance might be; is that -- is that correct?

20 A. Well, I thought I did. You might have to run it

21 -- I'm not too sure, but I -- I didn't -- I don't -- you

22 know, I'm just -- what I'm seeing on the video and what

23 I'm recalling is I -- I -- I didn't really like turn

24 around and look, but I can just feel that where -- where

25 it went in finally, and I didn't have no idea there was

2025-05-23 Counciller, David Page 38

1 your leather holster relates to what are the approved

2 Glock models for that holster?

3 MS. DENNISON: Objection to form.

4 A. Yes.

5 BY MR. HAAZ:

6 Q. Did you see anything on the holster that, in any

7 way, suggested that Glock had manufactured that holster?

8 A. No, I doubt it.

9 MS. DENNISON: Objection. Sorry, we're sort

10 of speaking over each other, my apologies. I'm going to

11 try to get my objections in faster. If you could just

12 take like a quick breath before you begin your answer,

13 we can get a clean record, Mr. Counciller. I don't want

14 to step over you.

15 BY MR. HAAZ:

16 Q. You indicated that when -- and I can pull up part

17 of the video, and I'll share my screen so we can go

18 through it.

19 All right. So I'm at about -- if I look at my

20 notes, I think the security camera video starts at about

21 51 seconds so I'm going to start there and play a little

22 bit.

23 (Whereupon, a video is being played.)

24 Q. All right. So at about 54 seconds, you've taken

25 out your Glock 23, and it's in your right hand; would

2025-05-23 Counciller, David Page 40

1 a drawstring in there with it.

2 Q. All right. So is it -- is it your belief and

3 understanding that when you re-holstered your Glock 23

4 around the 54 second mark there, that the drawstring was

5 through your trigger guard at that point?

6 A. I would -- probably. That was my resistance,

7 probably.

8 Q. Okay. And so you believe that when you

9 re-holstered your gun there in the video, that the

10 drawstring went through, and that would have been the

11 resistance that you felt?

12 A. That's what I felt like, yeah.

13 MS. DENNISON: Objection to form.

14 A. That's -- after I pulled it out and then looked

15 at it and kind of compared the size of this other one I

16 was looking at, then I went -- holstered it back. It

17 was a little rough. And I remember -- just like I said,

18 I was back on my side here and I -- you know, sliding in

19 and then it -- then it just went in place. And so --

20 then I got my jacket to pull it over the sides, and

21 that's when it discharged.

22 BY MR. HAAZ:

23 Q. All right. I'm gonna play another part of the

24 video. It's loading up here. Just give me a sec. All

25 right. I'm going to play the video, and then I'm going

2025-05-23 Counciller, David Page 41

1 to ask you some questions about it. And I'm starting at
2 1:50.

3 (Whereupon, a video is being played.)

4 Q. All right. I am now pausing it at about 2:06.

5 MS. DENNISON: Objection to hearsay in the
6 video.

7 MR. HAAZ: Well, we'll talk about that.

8 BY MR. HAAZ:

9 Q. Who was speaking in the segment of the video I
10 just played?

11 MS. DENNISON: Objection to form. You can
12 answer.

13 A. Are you talking -- are you talking about who was
14 speaking?

15 BY MR. HAAZ:

16 Q. Yeah, and I'll go back. I think it started at
17 about 1:52. There's a little demonstration here.

18 A. Yeah, that was me.

19 (Whereupon, a video is being played.)

20 Q. And that's the section of the video I was talking
21 about. Who is speaking?

22 A. Me.

23 Q. All right. And was that you giving a

24 demonstration about how the dog ear or the tab works?

25 A. Yes.

2025-05-23 Counciller, David Page 43

1 Q. All right.

2 A. And if you see on the -- on the video, I went
3 away from my hand, and I'm grabbing my jacket to pull it
4 up and over, and that's when it discharged. My hand
5 wasn't down there in the trigger guard, it was -- it was
6 on the jacket.

7 Q. Right. Now, you believe that the Glock is less
8 safe, because it doesn't have a manual safety and only
9 has the dog ear safety, than a 1911 or the Beretta that
10 you previously had; is that right?

11 A. Yes.

12 Q. All right. But that dog ear safety isn't a
13 safety on the outside of the gun, right?

14 MS. DENNISON: Objection to form.

15 A. Yes.

16 BY MR. HAAZ:

17 Q. All right. And if there is lateral pressure

18 applied to the sides of the trigger that doesn't touch

19 that dog ear safety --

20 A. No.

21 Q. -- the trigger will not fire, will it?

22 A. No.

23 Q. All right. So is that dog ear safety better than
24 having no dog ear safety at all on that trigger?

25 MS. DENNISON: Objection to form. You can

2025-05-23 Counciller, David Page 42

1 Q. All right. And how does it work?

2 A. The way it worked?

3 Q. Yeah.

4 A. Well, it's, like I said, if you got this -- I got

5 another -- I got another Glock right here, I can show

6 you.

7 Q. Sure.

8 A. This is it, this is the same model. I -- I still

9 own the other one, but it's locked up right at the

10 moment. But as you see (indicating) -- okay, I don't

11 know if I can -- do you see that little -- I call it a

12 dog ear, right here (indicating).

13 Q. Yup.

14 A. Okay? And now, like I said on that video -- let

15 me get this so I can see 'em here. I'm squeezing down

16 right here on this side. It's -- it's not -- it's not

17 going to go off, you know, with -- like I'm pulling

18 right now, until something or your finger or something

19 gets in there and then (indicating) --

20 Q. Understood. And so you said -- is it your

21 understanding that the drawstring would have gotten

22 through your trigger guard and also pulled the dog ear

23 in the middle of your trigger?

24 A. If -- when I pulled my jacket up is when it

25 discharged.

2025-05-23 Counciller, David Page 44

1 answer.

2 A. I -- I think it's -- I think it's dangerous to be

3 -- because there's not much of a safety feature there.

4 I mean, you know, accidents happen, and -- and -- that's

5 just -- I just -- that's my personal opinion. And it's

6 just not -- it's just not from what happened. When I

7 first saw a Glock back in the 80s, I didn't care for

8 that -- that type of a setup. But, you know, when we --

9 the law departments were going to the Sigs and the .40

10 calibers. And -- and so, you know, when you're in Rome,

11 you do as Romans, so I had to choose my weapon so --

12 but, you know, they're a good shooting gun. And I -- I

13 mean they're durable and you can throw them in the mud

14 and pick them up and start shooting them. I mean

15 it's -- they're a real durable, good gun, but they can

16 be dangerous, just like any other gun. And you got --

17 and me -- me being a -- yeah, this is my second time

18 around, in a sense, and I was always self-conscious

19 about weapons, you know? I've been around weapons all

20 my life, and in the service and everything else, and --

21 and I've been to a lot of farm schools and sniper school

22 and everything else. And then -- then something like

23 this happens and it -- it does make you feel like a fool

24 because you let your guard down, you're not paying

25 attention. In this situation, obviously, yeah, it's an

2025-05-23	Counciller, David	Page 45	2025-05-23	Counciller, David	Page 46
1	accident and -- and -- but that's what caught me off		1	then I'll jack one in there.	
2	guard, you know? My first little incident, you know, I		2	BY MR. HAAZ:	
3	knew that -- what ha -- what happened. I screwed up,		3	Q. Were you required to carry a loaded pistol when	
4	and I shouldn't have -- I should have made sure that --		4	you were on duty as a police officer?	
5	was no bullet in the barrel. But on this one here, it		5	A. Yes.	
6	just -- it just like -- and I found out the other police		6	Q. All right. You previously testified that one of	
7	officers and -- and -- had similar situations like this,		7	the reasons you went to the news and were interviewed is	
8	and it is embarrassing. And it's -- and, yeah, I don't		8	essentially you wanted to alert others and make sure	
9	like the design of it, but you know what you're		9	this didn't happen to others; is that fair?	
10	carrying. And since that time, even when I was on the		10	A. Yes, and that's -- that's just not police	
11	police department, I wouldn't even carry one up the pipe		11	officers. Anybody -- we got a lot of -- it's getting	
12	until I was on -- if I was on duty, it would be one		12	more so than it was back in the day, but a lot of people	
13	thing. And, of course, my duty leather was a lot more		13	are carrying their weapons, you know, for personal	
14	-- it had like three or four different safety features		14	safety. And I just wanted to get out there and -- and	
15	on the -- on the holster itself verse -- not just		15	let people know that what you're carrying, you've gotta	
16	talking about the gun, but for carrying and then drawing		16	be familiar with. Don't just, I bought a gun and never	
17	and everything. But -- but this is something that, when		17	shot it and never got any special training for it, and	
18	I was -- even today, if I'm carrying an automatic, I		18	knew about the weapons you were carrying and the safety	
19	won't keep one up the pipe. And -- and if -- and then		19	futures and this type of thing. So it's an awareness	
20	other officers will argue and think, well, you're losing		20	thing is what I was trying to -- trying to go with.	
21	seconds there. Well, you're losing -- might lose a		21	And, you know, I wasn't looking for no sympathy for me,	
22	couple seconds to jack one in the pipe, but at the same		22	you know, for what happened to me. It just -- it's just	
23	time, you're thinking about what you're doing too. And		23	a deal where I wanted to make the public aware. If	
24	so when I carry an automatic anymore (sic) -- I don't		24	you're carrying a weapon, you need to know that weapon,	
25	carry one up the pipe until I feel like I need it, and		25	and you need to have some training and be conscious of	
2025-05-23	Counciller, David	Page 47	2025-05-23	Counciller, David	Page 48
1	where it is and if it's loaded and so be it, you know?		1	keys anymore on that side of his holster. A lot of	
2	Q. Understood. And part of the reason you went on,		2	times you used to have these key holders on the side of	
3	you said, was to essentially warn others that keys or		3	your holster -- or belt, I should say.	
4	other items could actuate their trigger if their gun is		4	Q. And so that anecdote you were just telling us,	
5	holstered, right?		5	there was no unintended discharge?	
6	A. Did you say -- I'm -- keys?		6	A. No, no, there wasn't, but he -- this officer told	
7	Q. Yeah. I thought you said keys or other items		7	me that it scared him.	
8	could actuate a trigger when the gun is holstered.		8	Q. All right. And what kind of gun was he carrying,	
9	A. Are you talking about car keys or something?		9	if you remember?	
10	Q. Yeah.		10	A. He was -- I think he was carrying a model 22.	
11	A. Yeah. I had an officer -- one of my officers		11	Same thing but 23 is just a little shorter.	
12	stopped in the office a while -- a while back. I mean		12	Q. A Glock?	
13	shortly after this happened and this came about and		13	A. Pardon?	
14	everything else, and he had -- he had his keys down		14	Q. Is that a Glock?	
15	there by his holster, his house keys and his car keys or		15	A. Yeah.	
16	whatever. And one of the keys somehow had got into his		16	Q. And so in the example you just said, and in the	
17	holster, in the trigger guard area, and he caught it and		17	demonstration you gave before, if a key had contacted	
18	-- and --		18	the trigger and not actuated the dog ear, just like you	
19	Q. What do you mean, "he caught it"?		19	showed us, the Glock trigger would not pull --	
20	A. Pardon?		20	A. Uh-huh.	
21	Q. What do you mean, "he caught it"?		21	Q. -- rearward and fire; is that right?	
22	A. He -- he -- he realized that his keys were around		22	MS. DENNISON: Objection to form.	
23	there in his holster, and -- or one of them was		23	(Whereupon, the court reporter asked for	
24	protruding someplace on there, and he come to me and		24	clarification.)	
25	told me. He said that -- that he's not gonna carry his		25	BY MR. HAAZ:	

2025-05-23	Counciller, David	Page 49	2025-05-23	Counciller, David	Page 50
1	Q. Would not pull rearward and fire?		1	carried in the Army, it's -- it's not a double action.	
2	A. No. She put -- that -- that little dog ear has		2	You gotta have one up the -- you have to jack and then	
3	got to come down flush with that -- that trigger.		3	-- and have the trigger back or whatever. Every gun's	
4	Q. Okay.		4	got a little different char -- characteristics. Now, at	
5	MR. HAAZ: I don't have any other questions.		5	-- since the -- this time or before, a lot of gun	
6	Thank you very much, Mr. Counciller.		6	manufacturers -- you know, and I've -- we never carried	
7	THE WITNESS: Okay.		7	any Sigs, but I owned several Sigs, and they were a	
8	RE-EXAMINATION		8	pretty safe gun. And the Sig I owned -- or the two I	
9	BY MS. DENNISON:		9	owned, it never had any type of dog ear type of trigger.	
10	Q. I have just a couple of brief follow-ups, Mr.		10	They were -- they were similar to the Beretta and the	
11	Counciller, if you could just bear with me for just a		11	safety features and everything else and the 1911. So --	
12	moment.		12	but a lot of manufacturers today are using them dog ears	
13	I believe you indicated earlier that you wanted		13	on different new model guns and everything else.	
14	to make the public aware that you need to know what		14	Ironically, I purchased a weapon not too long ago, and	
15	you're carrying. Do you recall that?		15	one thing I noticed about it, it had -- it had a little	
16	A. Yes.		16	dog ear on it, but also it had a palm safe (sic). So	
17	Q. And what did you mean by that?		17	that's when you -- for instance they have -- back here	
18	A. Well, like I said, a lot of people go buy a gun,		18	on a lot of -- like the 1911, for instance, they -- the	
19	and they think that they just point it and shoot it,		19	purchase (sic) -- the gun I purchased has a -- a little	
20	pull the trigger, you know? They don't know any		20	thing that you gotta -- when you come down here and put	
21	characteristics -- characteristics about their gun, and		21	your palm down here like this, it's -- it will push	
22	they need to be trained with it and know the -- the --		22	down, and that's a safety feature. So you had the	
23	everything about it. And -- and, you know, like I said,		23	safety feature or the activation safety fea -- feature	
24	like we were talking about the Beretta. The Beretta is		24	here, with the same type of a dog ear here. But also it	
25	double action. But you take the .45 automatic that I		25	won't pull -- it won't pull. And ironically -- and I	
2025-05-23	Counciller, David	Page 51	2025-05-23	Counciller, David	Page 52
1	dry fired them all. I would dry fire it just to make		1	Do you agree that a gun is designed to discharge	
2	sure, but I did that, and checked that, that was fine,		2	when the trigger is pulled?	
3	up here on this, and I checked this without putting that		3	MR. HAAZ: Object to form.	
4	here, and it wouldn't fire (indicating). So they copied		4	A. Do I think a gun should discharge when you pull	
5	that off of Colt, and it's -- it's the one that comes up		5	the trigger?	
6	like this. And when you go like that down, there's two		6	BY MS. DENNISON:	
7	-- that's two safety features, and I was kind of		7	Q. Yes.	
8	impressed with that. So, you know -- and I don't know		8	A. Yes.	
9	if -- what Sig makes today or anything else. The ones I		9	Q. Okay. And in your time in law enforcement, would	
10	had, they're -- they were out, you know, 20 years ago or		10	it be a problem for you if you needed to pull the	
11	-- or before. And so -- but a lot of manufacturers,		11	trigger, and the gun did not fire?	
12	they -- they make them. But -- you know, with the dog		12	A. Yeah, definitely.	
13	ear now. And -- KelTec and some others. And -- and		13	Q. Do you have an expectation that if the trigger is	
14	it's just -- like -- like people need to know where the		14	pulled on one of your guns, that the gun will discharge?	
15	safety is on them, how to shoot them, when to shoot and		15	A. As long as there's one up the -- one up the pipe,	
16	all this kind of stuff but it's -- and it's just a whole		16	yeah.	
17	-- things to learn about a gun. Just -- you don't go,		17	Q. And that was a good clarification. Do you have	
18	just purchase it and throw it in your purse or throw it		18	an expectation that if there is a round in the chamber	
19	in your pants or a holster and -- well, I don't know how		19	of a gun and the trigger is pulled, that it will	
20	to shoot it, but I got one. So I'm just trying to make		20	discharge?	
21	a point here, it's people really need to know if they're		21	MR. HAAZ: Object to form.	
22	gonna have something like that, they need to get		22	A. If it doesn't -- sorry. If it doesn't fire, then	
23	educated with it.		23	there's something wrong with the weapon.	
24	Q. Thank you, sir. I just have a couple more		24	BY MS. DENNISON:	
25	questions.		25	Q. And that would be a problem, right?	

<p>2025-05-23 Counciller, David Page 53</p> <p>1 A. Yeah. Another thing I haven't mentioned, and 2 it's something to think about too, is because Glock and 3 others, they don't have -- they don't have back here a 4 hammer, and a lot of -- and just like I talked about the 5 .45 in the Army and the Beretta, they have hammers, so 6 you see where the hammer is. This -- these -- these 7 hammers -- there's no hammer back here, it's all 8 internal. So you really don't know if the thing has got 9 one on the trigger or one ready to fire if you don't 10 have one up the pipe or whatever, but you know -- don't 11 know where that -- that hammer is, you know? There's a 12 -- a little pin on some of them that you could see it, 13 it's a little more flush, you know, in the back, but 14 there's just so many different ways and so many guns out 15 here that they have hammers that are exposed and some 16 don't. And so it's -- yeah, you're -- you're -- you got 17 a -- excuse me. If you are carrying a weapon, then you 18 need to know what you're carrying and everything. And 19 you pull the trigger because your life's in danger and 20 everything else, your expectation is that gun's gonna 21 discharge and fire and supposedly hit who you're 22 shooting. 23 Q. Did you ever -- 24 A. Um -- 25 Q. Apologies, sorry.</p>	<p>2025-05-23 Counciller, David Page 54</p> <p>1 A. Go ahead. 2 Q. Did you ever do any training of any officers on 3 shooting? 4 A. Yes. 5 Q. And did you train any of the officers about how 6 to properly place their finger on the trigger of a Glock 7 to ensure that they push in that -- what you call the 8 dog ear or the tab trigger? 9 A. Well, yeah. Usually if -- if you're in the 10 training mode -- today, okay, they try to keep your 11 finger off the trigger as you're seeing right here. So 12 if there -- if that finger's coming down, it can come 13 down like this (indicating). So usually when they go 14 in, they usually try to keep their -- their fingers up 15 -- upward, you know, like this, instead of going in like 16 this. And, all of a sudden, you trip on an old carpet 17 or something, and, you know, it -- you just got -- you 18 keep the -- keep the finger off the trigger if you're 19 like searching a building or something like this, you 20 know? And -- but you can see that you can move it real 21 quick in -- inward. Yeah, it's -- it's just like I 22 said, it's a lot to learn, and just a lot to remember. 23 And you do, you gotta be subconsciously, you know, 24 thinking about it, what you're carrying, especially if 25 you're in a situation. And I have been fortunately --</p>
<p>2025-05-23 Counciller, David Page 55</p> <p>1 was involved in a police shooting back in 2001. And -- 2 but it wasn't with a hand -- it wasn't with a handgun, I 3 was using a shotgun. But, ah -- but -- it -- it's 4 something that you -- it comes with your training and -- 5 and -- and your training with police officers, they 6 shoot so many times a year, and just get familiar with 7 what you got and everything else. Just -- 8 Q. Would you agree that it could be an issue for 9 somebody if they had a gun with a dog ear or a tab 10 trigger, and they needed to fire their weapon, and they 11 did not fire it because they did not properly place 12 their finger on the trigger and disengage that tab? 13 MR. HAAZ: Object to form. 14 A. I -- I don't think -- I don't -- I don't know of 15 anybody -- or of an incidence that -- that -- you know, 16 happened, you know, if that's answering your question. 17 BY MS. DENNISON: 18 Q. Sure. Is it your understanding that the dog ear 19 or tab trigger on the Glock is designed to be easily 20 disengaged when the trigger is pulled? 21 MR. HAAZ: Object to form. 22 A. Well, I don't think -- if you're putting your 23 finger on that trigger and you're -- and you're coming 24 down on it, it's gonna -- you know, it's gonna -- that 25 dog ear's gonna go straight down in -- that weapon's</p>	<p>2025-05-23 Counciller, David Page 56</p> <p>1 gonna discharge unless, like I said, there's a defective 2 part in the gun or something. 3 BY MS. DENNISON: 4 Q. Right. I mean -- 5 A. That's -- 6 Q. Sorry. Were you finished? 7 A. Sure. 8 Q. Okay, sorry. I did not mean to step over you. 9 So -- all right. So are you saying you don't 10 have any knowledge of anybody who was unable to or 11 misplaced their finger on that trigger and did not get 12 that trigger pulled back when they wanted to? 13 A. Not to my knowledge, no. 14 Q. And alternatively, are you aware of any 15 situations where that dog ear or tab trigger on the 16 Glock pistol prevented a gun from discharging 17 accidentally when something contacted the trigger? 18 A. Not -- not to my knowledge if that's what you're 19 -- I think I know what you're asking. I mean it's 20 pretty cut and dry. It's gonna discharge, I mean, 21 unless, like I said, it's defective, but I don't -- I 22 don't -- are you trying to say that it would fire 23 without the dog ear being down? 24 A. No, no. Let me -- let me be clear, all right? 25 Are you aware of any circumstances where something</p>

2025-05-23 Counciller, David Page 57

1 contacted only the side of a Glock trigger and did not
 2 pull the trigger in an accidental circumstance?
 3 MR. HAAZ: Object to form.
 4 A. I don't think -- no.
 5 BY MS. DENNISON:
 6 Q. Do you understand?
 7 A. I think I know what you're trying to say.
 8 Q. All right.
 9 A. You're saying that -- that the gun would
 10 discharge without the dog ear being down?
 11 Q. No. Let me ask it this way, and let me make it
 12 really clear. Do you have any information that that dog
 13 ear on the Glock prevents an accidental discharge when
 14 something contacts the trigger and pulls it rearward?
 15 MR. HAAZ: Object to form.
 16 A. I don't, no. I don't think so.
 17 BY MS. DENNISON:
 18 Q. Okay.
 19 A. I mean -- I mean you're -- you're -- I'm trying
 20 to understand what you're saying. I'm -- I'm -- if you
 21 -- are you telling me that like it wouldn't fire, like I
 22 said, or -- or -- or it does fire when -- when I didn't
 23 -- once you push it on the side, for instance?
 24 Q. Right. Are you aware of any circumstances where
 25 somebody accidentally had the trigger contacted on the

2025-05-23 Counciller, David Page 59

1 just got kind of like spooked by the -- his key was
 2 over, close to that trigger guard or inside of it. But
 3 it never touched the trigger or anything else.
 4 BY MR. HAAZ:
 5 Q. And do you have any personal knowledge of whether
 6 that key touched the trigger or didn't touch the
 7 trigger?
 8 MS. DENNISON: Objection to form.
 9 A. For him?
 10 BY MR. HAAZ:
 11 Q. Yeah.
 12 A. No. He was just telling me about it and that's
 13 all, but it's pretty -- pretty cut and dry. It wasn't
 14 really elaborated on, so to speak.
 15 Q. All right. I just want to clear a few things up.
 16 **Am I correct that, to your knowledge and understanding,**
 17 **you know of no instance where somebody tried to pull a**
 18 **Glock trigger and was unable to due to the presence of**
 19 **the tab or the dog ear?**
 20 **A. No.**
 21 **Q. I'm correct that you don't know if that ever**
 22 **happened?**
 23 **A. No. Not to my knowledge, no.**
 24 Q. You had two unintended discharges. One was in
 25 1999, and the other in 2014?

2025-05-23 Counciller, David Page 58

1 side on a Glock, and that dog ear wasn't pressed and, as
 2 a result, it prevented that gun from discharging in that
 3 accidental circumstance?
 4 A. No, no. Sometimes you have to draw me a picture,
 5 but no.
 6 Q. Okay.
 7 MS. DENNISON: Those are all my questions.
 8 Thank you, sir.
 9 RE-EXAMINATION
 10 BY MR. HAAZ:
 11 Q. Just to follow up on that briefly, Ms. Dennison
 12 was just asking if you knew of any instance of a -- an
 13 object contacting the side of a trigger and preventing
 14 the trigger from discharging. Do you remember that?
 15 A. Go ahead, yeah.
 16 Q. Yeah. And you said you actually knew of an
 17 instance of a -- of a fellow officer who was carrying a
 18 Glock and realized that his keys were getting into the
 19 trigger guard, but that the gun didn't discharge, right?
 20 A. Yeah, he --
 21 MS. DENNISON: Object to form.
 22 A. It didn't -- it didn't -- I don't think it -- I
 23 don't think it went that far. He was -- told me that
 24 his key, one key, was like in the trigger guard, but I
 25 don't think he hit the trigger or nothing like that. He

2025-05-23 Counciller, David Page 60

1 A. Yes.
 2 Q. You chalked up the 1999 one to your own
 3 carelessness, right?
 4 A. Yes, yeah.
 5 Q. Do you own a P320?
 6 A. No.
 7 Q. A Sig Sauer P320?
 8 A. What is it?
 9 Q. A Sig Sauer P320.
 10 A. No.
 11 Q. Do you know anything about that gun?
 12 A. Not right off, no.
 13 Q. All right. Do you know whether it's a
 14 striker-fired or a hammer-fired gun?
 15 A. I don't. I don't know -- I've only owned two --
 16 owned two. I'm trying to remember what the models was
 17 (sic) -- what they -- they were -- the regular -- they
 18 were just -- the older Sigs, like back in the 90s, early
 19 90s, and I had a couple of them. One was a
 20 9 millimeter, and one was the .40, and it basically had
 21 the same characteristics. And they had -- they were a
 22 pretty safe gun as far as the safety features, and they
 23 didn't have no -- they didn't have any dog ears, so to
 24 speak. So what -- what they've been out here now --
 25 like I said, everybody's been putting them dog ears on

<p>2025-05-23 Counciller, David Page 61</p> <p>1 -- on everything. And -- and like the one I bought the</p> <p>2 other day has one, but it has another safety feature too</p> <p>3 so --</p> <p>4 Q. And what kind of gun is that, the one you bought</p> <p>5 the other day --</p> <p>6 A. It was a Springfield.</p> <p>7 Q. XD?</p> <p>8 A. Springfield Armory.</p> <p>9 Q. Okay. And was that a striker-fired gun with no</p> <p>10 hammer?</p> <p>11 A. Yeah.</p> <p>12 Q. And did you -- do you know -- so the gun you just</p> <p>13 bought, the Springfield, had a grip safety and a dog ear</p> <p>14 tab trigger?</p> <p>15 A. Yeah.</p> <p>16 Q. All right. Did you know the P320 is a</p> <p>17 striker-fired gun, it doesn't have a grip safety, and is</p> <p>18 offered without -- I'm sorry, is a striker-fired gun</p> <p>19 that is offered without a manual safety --</p> <p>20 MS. DENNISON: Objection to form.</p> <p>21 BY MR. HAAZ:</p> <p>22 Q. -- and has no dog ear or tab trigger?</p> <p>23 MS. DENNISON: Objection to form.</p> <p>24 A. Some -- something similar to a Glock?</p> <p>25 BY MR. HAAZ:</p>	<p>2025-05-23 Counciller, David Page 62</p> <p>1 Q. A Glock without the tab trigger.</p> <p>2 MS. DENNISON: Objection to form.</p> <p>3 A. Well, I'm not familiar with -- with what weapon</p> <p>4 you're talking about so I haven't even -- I mean, like I</p> <p>5 said, they've got so many, and I'm really -- anymore,</p> <p>6 I'm -- I'm more of a revolver guy. I went back, because</p> <p>7 we started out with revolvers and -- and to this day, I</p> <p>8 carry a revolver --</p> <p>9 BY MR. HAAZ:</p> <p>10 Q. Understood.</p> <p>11 A. I mean for my personal safety, but I do have</p> <p>12 automatics. And I -- and the one I purchased, I -- I</p> <p>13 wouldn't even carry it until I took it to the range and</p> <p>14 shot it, and I haven't took it to the range and shot it</p> <p>15 yet and -- so I haven't -- I can't really speak for it</p> <p>16 either.</p> <p>17 MR. HAAZ: Okay. Mr. Counciller, I don't</p> <p>18 have any other questions. Thanks for your time. I</p> <p>19 appreciate it.</p> <p>20 MS. DENNISON: Thank you, Mr. Counciller.</p> <p>21 THE WITNESS: No problem.</p> <p>22 VIDEOGRAPHER: All right, one moment.</p> <p>23 This now concludes the videoconference</p> <p>24 deposition of David Counciller.</p> <p>25 Counsel, will it be the same orders as the</p>
<p>2025-05-23 Counciller, David Page 63</p> <p>1 first deposition?</p> <p>2 MS. DENNISON: It will be for me.</p> <p>3 MR. HAAZ: Yes.</p> <p>4 VIDEOGRAPHER: Okay. And do you want to</p> <p>5 advise of read or waive?</p> <p>6 MS. DENNISON: Mr. Counciller, you have the</p> <p>7 opportunity to either -- read and sign the transcript</p> <p>8 from this deposition. So you can get a printed-out copy</p> <p>9 of the transcript from it, you can review it for</p> <p>10 accuracy, you can submit an errata sheet if there is</p> <p>11 anything incorrect, or you can just sign that it is</p> <p>12 good, or you can waive that right and not read the</p> <p>13 transcript.</p> <p>14 THE WITNESS: I just -- if you need me to</p> <p>15 sign something, fine, but I waive anything. I don't --</p> <p>16 you know -- I mean this isn't -- you -- you've -- you've</p> <p>17 brought me on here to ask me questions about a Glock and</p> <p>18 the incidents I've had and, you know, I have no dog in</p> <p>19 this fight, so to speak, you know? And so there's -- it</p> <p>20 doesn't really make any difference to me.</p> <p>21 MS. DENNISON: So this is totally up to you.</p> <p>22 We don't need anything from you, so this is up to you.</p> <p>23 It's your option. So if you want to read it, make sure</p> <p>24 it's all accurate and sign it, you can. If you don't</p> <p>25 want to do that, then you can say that you waive that.</p>	<p>2025-05-23 Counciller, David Page 64</p> <p>1 THE WITNESS: I waive that.</p> <p>2 VIDEOGRAPHER: All right, one moment.</p> <p>3 We are now going off the record on May 23,</p> <p>4 2025 at 2:38 p.m. Eastern Time.</p> <p>5 (Whereupon, the above-named deposition was concluded at</p>

2025-05-23	Counciller, David	Page 1	2025-05-23	Counciller, David	Page 2
1	IN THE UNITED STATES DISTRICT COURT		1	APPEARANCES:	
2			2	LITTLETON JOYCE UGHETTA & KELLY LLP	
3	Civil action No: 1:23-cv-00327-JDL		3	2460 N. Courtenay Pkwy, Suite 204	
4			4	646-708-4844	
5			5	Attorney for Defendant Sig Sauer, Inc.	
6			6		
7			7	BY: JEFFREY RUSSELL, ESQUIRE	
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11			11	SALTZ, MONGELUZZI & BENDESKY, P.C.	
12			12	One Liberty Place, 52nd Fl	
13			13	Philadelphia, PA 19103	
14			14	shaaz@smbb.com	
15			15		
16			16		
17	for the State of Maine, via Zoom videoconference,		17		
18	notice given.		18		
19			19		
20			20		
21			21		
22			22		
23			23		
24			24		
25			25		
2025-05-23	Counciller, David	Page 3	2025-05-23	Counciller, David	Page 4
1	INDEX		1	(This deposition was taken before Debra J. Fusco,	
2			2	Notary Public, via Zoom videoconference, on May 23,	
3			3	2025, beginning at 1:10 p.m.)	
4			4	VIDEOGRAPHER: We are now on the record.	
5			5	The time is 1:10 p.m. Eastern Time on May 23, 2025.	
6			6	This begins the videoconference deposition of David	
7			7	Counciller taken in the matter of David Alan Cole and	
8	EXHIBITS		8	Kimberly Cole versus Sig Sauer, Incorporated. The case	
9			9	number is 1:23-cv-00327-JDL, and is filed in the United	
10	NONE		10	States District Court for the District of Maine.	
11			11	My name is George Ellis, I am your remote	
12			12	videographer. Our court reporter is Debra Fusco, and we	
13			13	are representing Esquire Deposition Solutions.	
14			14	Counsel, please state your name and who you	
15			15	represent, after which the court reporter will swear in	
16			16	the witness.	
17			17	MS. DENNISON: Kristen Dennison from	
18			18	Littleton Joyce Ughetta & Kelly, and I represent Sig	
19			19	Sauer, Inc.	
20			20	MR. HAAZ: Sam Haaz on behalf of David and	
21			21	Kimberly Cole.	
22			22	MR. RUSSELL: I'm also here, Jeff Russell,	
23			23	Verrill Dana, LLP on behalf of Sig Sauer.	
24			24	MS. DENNISON: Erica Esposito from Sig Sauer	
25			25	is also present.	

2025-05-23	Counciller, David	Page 5	2025-05-23	Counciller, David	Page 6
1	(The deponent was administered the oath by the Notary		1	for the record to make sure everything is audible.	
2	Public.)		2	We can only have one person speaking at a time.	
3	DAVID COUNCELLER, after having been		3	In the normal course of conversation, it is easy to	
4	duly sworn by the Notary Public,		4	anticipate what my question is and begin your response	
5	was deposed and testified as		5	before I have finished my full question. For purposes	
6	follows:		6	of the record today, I would ask that you allow me to	
7	EXAMINATION		7	completely finish my question before you begin your	
8	BY MS. DENNISON:		8	response, and I will allow you to completely finish your	
9	Q. Good afternoon, Mr. Counciller. My name is		9	response before I begin my next question, okay?	
10	Kristen Dennison. I represent Sig Sauer in an action		10	A. Okay.	
11	that's been brought against it by David and Kimberly		11	Q. Great. We are going to try to be as quick as we	
12	Cole. We are here today pursuant to a subpoena that my		12	can today with you. That said, if you need a break at	
13	office issued to you. Is that your understanding?		13	any point in time, please let us know that, and we'll be	
14	A. Yes, ma'am.		14	happy to accommodate you.	
15	Q. Okay. And thank you for your appearance here		15	A. Well, I would really like to go put my ear plugs	
16	this morning.		16	in at the moment.	
17	Have you ever had your deposition taken before?		17	Q. If you want to go do that, you can step away and	
18	A. Not like this.		18	go put your earplugs in, that's fine.	
19	Q. Okay. Let me give you a few brief instructions		19	A. I think I will because this is kind of new to me	
20	before we begin. We do have a court reporter		20	and I'm -- I need to sharpen up my hearing here real	
21	transcribing everything here today so I need to make		21	quick so I'll be right back.	
22	sure that all of your responses to my questions are		22	MS. DENNISON: Let's go off the record a	
23	verbal. In particular, I need an audible yes for a no		23	moment.	
24	as opposed to a nod or a shake of the head. If you		24	VIDEOGRAPHER: Going off the record, the	
25	forget, don't worry about it, one of us will correct it		25	time is 1:13.	
2025-05-23	Counciller, David	Page 7	2025-05-23	Counciller, David	Page 8
1	(OFF RECORD)		1	Q. Okay, great. And the oath that you took today is	
2	VIDEOGRAPHER: Back on the record. The time		2	the same as if you were testifying in a court of law.	
3	is 1:14.		3	Do you understand that?	
4	MS. DENNISON: Okay.		4	A. Yes.	
5	BY MS. DENNISON:		5	Q. Great. Mr. Counciller, are you taking any	
6	Q. Mr. Counciller, can you hear -- can you hear		6	medications that would prevent you from testifying	
7	everything okay now?		7	truthfully and honestly to the best of your	
8	A. Yes.		8	recollection?	
9	Q. Great. So I'm going to ask you some questions		9	A. No.	
10	about an unintentional discharge that I understand you		10	Q. All right. Did you review any documents to	
11	experienced a little over 10 years ago, and I need to		11	prepare for your deposition here today?	
12	have you answer my questions truthfully and honestly to		12	A. No.	
13	the best of your recollection, okay?		13	Q. Can you please state your full name?	
14	A. Yes, ma'am.		14	A. David Joe, is J-O-E, Counciller,	
15	Q. Great. If you don't hear my question, please let		15	C-O-U-N-C-E-L-L-E-R.	
16	me know that, and I will repeat it. If you don't		16	Q. Where are you currently located, Mr. Counciller?	
17	understand my question, which is quite possible, please		17	A. Connersville, Indiana.	
18	let me know that, and I will be happy to rephrase it,		18	Q. Have you ever been known by any other names?	
19	okay?		19	A. No.	
20	A. Okay.		20	Q. Do you reside in Connersville, Indiana?	
21	Q. If you answer one my questions, I am going to		21	A. Yes.	
22	assume that you heard my question, that you understood		22	Q. Mr. Counciller, have you experienced an	
23	my question, and that you answered it truthfully and		23	unintended discharge with a Glock pistol?	
24	honestly to the best of your recollection; is that fair?		24	A. Yes.	
25	A. Sure, yup.		25	Q. When did you experience an unintended discharge	

2025-05-23 Counciller, David Page 9

1 with a Glock pistol?
 2 A. It was in January, 2014.
 3 Q. What kind of Glock was involved?
 4 A. It was a Glock 23.
 5 Q. Was that your Glock 23?
 6 A. It was an issued weapon by my police department.
 7 Q. What police department?
 8 A. Connersville City Police Department.
 9 Q. How long have you carried that Glock 23?
 10 A. Oh, several years. I was a -- I was the chief of
 11 police at the time, and we had carried Glock -- Glock.
 12 The -- the -- the Glock 23 was a little shorter model
 13 than the 22 that the original officers would carry.

14 Q. As chief of police -- was that for Connersville
 15 Police Department?
 16 A. Yes, it was.
 17 Q. As chief of police for the Connersville Police
 18 Department, did you select the Glock 23 pistol?
 19 A. No. It's -- it was done several years -- that
 20 was like our -- I think that was our second issue. I
 21 think the first time we were issued back in '99,
 22 something like that. Then we carried -- I got the
 23 Generation 2, then we went to the Generation 3. And
 24 since then, they go to 4 and 5.
 25 Q. All Glock's?

2025-05-23 Counciller, David Page 11

1 -- with mine. And afterwards, I handed the weapon back,
 2 the weapon I was looking at, I handed it back to the
 3 owner of the gun shop. And I went to holster my weapon
 4 again in my holster, and I noticed when I put it in
 5 there, it was a little snug more so, but I had a jacket
 6 on, a heavy jacket. And when -- I should say I had a
 7 jacket, but it seemed like I had -- I had a fleece
 8 jacket and -- on underneath the coat. Anyway, so when I
 9 went to pull up my fleece to -- to hide the weapon, I
 10 had a -- my drawstring -- I had a drawstring that was
 11 hanging down on my right side, and I'm right-handed, and
 12 it's a right-handed holster. Somehow it got into that
 13 trigger guard. And when I went and pulled my jacket
 14 with my right hand, on my right side, I went to pull it
 15 up to -- to -- to put my jacket over the weapon, the
 16 drawstring was in there and -- and it was caught in
 17 there. And when I pulled up with that jacket with that
 18 drawstring, it discharged. And there was a video that I
 19 had -- did with Channel 6 news out of Indianapolis, and
 20 I believe -- I was really just concerned about people
 21 with clothing and carrying weapons. It happens -- this
 22 happens a lot of (sic) police officers, and I imagine
 23 it's happened with other people also. I don't know, but
 24 I know that the reporter did a -- did a investigation on
 25 that, and at the time he -- he had roughly around a

2025-05-23 Counciller, David Page 10

1 A. On the Glock's.
 2 Q. Okay, great. And the Glock 23 pistol that you
 3 were carrying in January of 2014, did that have a little
 4 blade or -- in the trigger?
 5 MR. HAAZ: Objection --
 6 A. Yes, we call it a little dog ear.
 7 BY MS. DENNISON:
 8 Q. You called it a dog --
 9 A. If you'd like -- if you would like, ma'am, I
 10 could probably pull it up and show it to you.
 11 Q. Do you still have that pistol?
 12 A. I don't have that one, but I have another one, a
 13 Generation 4, which is the same thing, just a newer
 14 model. It's the same dog ear, same trigger, everything.
 15 Q. Okay. All right. And in January of 2014, can
 16 you tell me the circumstances surrounding your
 17 unintended discharge?
 18 A. Well, I had stopped into a local gun shop here in
 19 Connersville, and the owner of the place is a friend of
 20 mine, and there was another Glock, it was a 380, a
 21 little bit smaller, and it was like a newer version.
 22 And I was looking at it, and I pulled my weapon out,
 23 carefully, and I was comparing the size, basically, for
 24 being carried for undercover or just plainclothes to
 25 where it's concealed, and I was comparing it with this

2025-05-23 Counciller, David Page 12

1 thousand incidents, that's what he told me, involving
 2 something similar with drawstrings. So, any way, it --
 3 it grazed -- grazed my upper leg right underneath my
 4 right leg and buttocks and -- and it -- just a graze.
 5 And so -- but did -- did catch me off guard and I -- you
 6 know, the Glock is a good weapon, but it's a very
 7 dangerous weapon because they -- that little -- little
 8 dog ear and that trigger right there is -- they want to
 9 call it a safety. It's not a safety, it's an activation
 10 switch because it's not gonna go off until something or
 11 a finger or something else is there, and it has to pull
 12 it flush with the trigger itself, then it will
 13 discharge. There's not any other safety -- safety
 14 features with the Glock other than that, either with
 15 being closed with no weapon -- no rounds in it or -- or
 16 it's jacked open with no rounds in it. But that's the
 17 only safety feature it has, and I'm not real -- I never
 18 was real sure about that.
 19 MR. HAAZ: I'm going to just object and move
 20 to strike all the parts of the answer that relate to
 21 hearsay, and particularly with what the reporter said
 22 and, you know, what he doesn't have personal knowledge
 23 of.
 24 And, sir, there may be objections from time
 25 to time. They're just for Ms. Dennison and I to make a

2025-05-23 Counciller, David Page 13

1 record, that's all they are. So now that that's on the
 2 record, I turn the question back over to Kristen and
 3 apologize for any interruption.
 4 BY MS. DENNISON:
 5 Q. Thank you, Mr. Counciller. I'm going to ask you
 6 a few questions to break that down a little bit, okay?
 7 A. Sure.
 8 **Q. Let's start with, what kind of holster were you**
 9 **using at the time?**
 10 **A. It was a leather holster. It didn't have a**
 11 **strap. It just sat as -- as kind of like -- it was a**
 12 **worn leather. I mean it's a -- fit comfortable and**
 13 **everything, but it was just really sitting down in -- in**
 14 **the holster itself, and it was leather.**
 15 Q. Okay. The holster -- do you remember the brand
 16 of the holster?
 17 A. I got it -- I got it upstairs. I can --
 18 Q. You have the actual holster upstairs?
 19 A. Yes.
 20 Q. Would you -- would you mind getting that, and
 21 then we can take a --
 22 A. Sure.
 23 MS. DENNISON: All right. Let's go off the
 24 record for a moment.
 25 THE WITNESS: Be right back.

2025-05-23 Counciller, David Page 15

1 Holder (sic).
 2 THE WITNESS: Masters's Holder (sic).
 3 UNIDENTIFIED ATTENDEE: 17, 22, 31.
 4 THE WITNESS: Okay.
 5 UNIDENTIFIED ATTENDEE: It's a Glock holder
 6 (sic).
 7 A. I'll -- that's -- I don't know if you can see
 8 that or not, but that's the make of it.
 9 BY MS. DENNISON:
 10 Q. Okay. And so that is a Glock --
 11 A. Glock --
 12 Q. Glock Masters's Holster?
 13 A. Yes.
 14 Q. 17, 22, 31?
 15 UNIDENTIFIED ATTENDEE: 77.
 16 A. I think it was 77 she said.
 17 BY MS. DENNISON:
 18 Q. Oh, 77, 33 -- or 77, 22, 31.
 19 UNIDENTIFIED ATTENDEE: Yeah.
 20 BY MS. DENNISON:
 21 Q. And --
 22 A. Yeah.
 23 Q. Great. And, for the record, who is she? Is
 24 that your wife?
 25 A. My fiancée. Her name is Shannon.

2025-05-23 Counciller, David Page 14

1 VIDEOGRAPHER: Off the record. The time is
 2 1:24.
 3 (OFF RECORD)
 4 VIDEOGRAPHER: Back on the record. The time
 5 is 1:25.
 6 BY MS. DENNISON:
 7 Q. Okay, Mr. Counciller, while we went off the
 8 record, you went and retrieved the holster that you were
 9 wearing on the day of the unintended discharge. Can you
 10 put that holster up to the camera, to the video feed, so
 11 that we can see it?
 12 A. Yes, (indicating). As you see, it's a black
 13 leather. It's open here at the top and the -- I'm half
 14 blind too. Anyway --
 15 THE WITNESS: Honey?
 16 UNIDENTIFIED ATTENDEE: Yes.
 17 THE WITNESS: Can you read that -- the make
 18 of this holster? You might want to turn a light on or
 19 something.
 20 UNIDENTIFIED ATTENDEE: Glock.
 21 THE WITNESS: No, that's -- that's a Glock.
 22 UNIDENTIFIED ATTENDEE: Masters's --
 23 Masters's Holder (sic).
 24 THE WITNESS: It's a what?
 25 UNIDENTIFIED ATTENDEE: Glock The Masters's

2025-05-23 Counciller, David Page 16

1 Q. Thank you. All right, okay. So, Mr. Counciller,
 2 that was the holster. I'm going to ask you about the
 3 information you gave about -- you said he told you about
 4 a thousand instances of similar issues with drawstrings.
 5 My question for you is, who is the "he" to which you
 6 were referring?
 7 UNIDENTIFIED ATTENDEE: Rafael Sanchez.
 8 A. Rafael San -- Sanchez.
 9 BY MS. DENNISON:
 10 Q. And who is Rafael Sanchez?
 11 A. He is a reporter for -- was a reporter for
 12 Channel 6 news. He's on a -- another network up in
 13 Indianapolis also now. I think it's -- I don't know
 14 what the -- I don't know what it is right now.
 15 UNIDENTIFIED ATTENDEE: He's an
 16 investigative reporter. He's --
 17 THE WITNESS: He's what?
 18 UNIDENTIFIED ATTENDEE: He's an
 19 investigative --
 20 A. He's an investigative reporter with --
 21 THE WITNESS: Who's he with now?
 22 UNIDENTIFIED ATTENDEE: WRTV ABC.
 23 A. WR --
 24 MR. HAAZ: Kristen, I'm going to object to
 25 any assistance with his testimony.

2025-05-23	Counciller, David	Page 17	2025-05-23	Counciller, David	Page 18
1	MS. DENNISON: Yeah.		1	Q. And when he told you that he was aware of a	
2	MR. HAAZ: Mr. Counciller, I understand you		2	thousand instances of similar issues, what -- did you	
3	haven't done this before, but the rules don't allow for		3	have an understanding as to what he meant by "similar	
4	you to consult with others or have side conversations so		4	issues"?	
5	--		5	MR. HAAZ: Object to form.	
6	THE WITNESS: Okay.		6	BY MS. DENNISON:	
7	MR. HAAZ: You're just going to have to		7	Q. You can answer.	
8	testify to the best of your recollection.		8	A. I can answer?	
9	MS. DENNISON: Yeah, and it's okay. If you		9	Q. Yes, you may answer.	
10	don't -- and I'm not sure --		10	A. Just that -- I'm not too sure -- I'm not too	
11	BY MS. DENNISON:		11	sure. I know he interviewed a few people that's had	
12	Q. I think I forgot this instruction, Mr.		12	similar situations like mine, but I don't know who they	
13	Counciller, so that's on me. But if you don't know the		13	were, all this type of thing or anything else. He just	
14	answer to a question, please just tell me that -- that		14	did an investigation, and I don't know where he come up	
15	you don't know, and that's fine, okay?		15	with a thousand either.	
16	A. Okay.		16	Q. Do you have any information as to whether those	
17	Q. Thank you so much. All right. So -- so Rafael		17	thousand instances involved Glock pistols or a variety	
18	Sanchez told you that he knew of a thousand instances of		18	of pistols or something else?	
19	similar issues; is that what you testified to?		19	MR. HAAZ: Object to form.	
20	MR. HAAZ: Objection.		20	BY MS. DENNISON:	
21	A. That's what he told me, you know, back then, and		21	Q. You can answer.	
22	I don't think he contacted with everyone that -- that --		22	A. Several were Glocks, and then I think he told me	
23	but he did get ahold of some that have had dis --		23	one was a Sig.	
24	accidental discharges.		24	Q. Okay.	
25	BY MS. DENNISON:		25	A. But I don't know the circumstances of it.	
2025-05-23	Counciller, David	Page 19	2025-05-23	Counciller, David	Page 20
1	Q. Okay. And you can ignore both of us if we say		1	have some questions for you on that, but I want to	
2	objection to form, you can just ignore us and answer the		2	confirm that this is what you saw; okay, Mr. Counciller?	
3	question. I'm sure I might do the same when Mr. Haaz		3	THE WITNESS: Sure.	
4	asks you some questions. Again, that's just to --		4	(Whereupon, a video is being played.)	
5	that's just for us to deal with later, but you don't		5	MR. HAAZ: Kristen? Kristen.	
6	have to worry about it, okay?		6	(Whereupon, a video is being played.)	
7	A. Okay.		7	VIDEOGRAPHER: Excuse me?	
8	Q. Thanks. All right, so -- all right, so I'm going		8	MR. HAAZ: Kristen?	
9	to go ahead and I'm going to show you what I believe is		9	MS. DENNISON: Yes.	
10	the Channel 6 news report. So I'm going to go ahead and		10	MR. HAAZ: I can't see the video. Can	
11	-- well, let me ask you first: Did you see the Channel		11	anyone else not see it?	
12	6 news report about your incident?		12	MS. DENNISON: Oh, my God.	
13	A. Yes.		13	VIDEOGRAPHER: No.	
14	Q. Okay. I'm going to go ahead and play the video.		14	MS. DENNISON: I forgot to share it. How	
15	MS. DENNISON: I'm going to play the whole		15	about I share it.	
16	video, Sam, and I understand that there will be some		16	Thank you, Sam. Thank you for interrupting	
17	hearsay played in here that you will have an objection		17	before I went any further with that.	
18	to. You can note that now, or you can note it later,		18	Let me share the video. I got ahead of	
19	okay?		19	myself, and we'll start over. I'm going to start from	
20	MR. HAAZ: Yeah, to the extent that the		20	the beginning. My apologies. Can you all see it now?	
21	video will be played or any portion of this video will		21	THE WITNESS: Yes.	
22	be played at trial, I mean we'd object to the entire		22	(Whereupon, a video is being played.)	
23	video coming in.		23	MS. DENNISON: Okay.	
24	MS. DENNISON: Understood. So for now, I'm		24	BY MS. DENNISON:	
25	just going to play the Channel 6 news video because I'll		25	Q. Mr. Counciller, is that the ABC News report that	

2025-05-23 Counciller, David Page 21

1 you recall previously seeing?

2 A. Yes.

3 Q. Okay. And that was reported by Rafael Sanchez,

4 that's what you were referencing a little bit ago; is

5 that correct?

6 A. Yes.

7 Q. Okay. There were some other individuals

8 mentioned in that news report. Did you ever speak with

9 any of the other individuals that reported having a

10 discharge with a drawstring from their jacket?

11 A. No.

12 Q. Okay. Have you ever spoken with anybody else who

13 experienced an accidental discharge that you believed

14 was similar to yours?

15 A. No.

16 MR. HAAZ: Object to form.

17 BY MS. DENNISON:

18 Q. Okay. Have you ever seen any other accidental

19 discharges besides yours?

20 A. On a video one time, something similar happened

21 on a range with an individual, but I don't remember

22 anything about where it happened or who it was or

23 anything else.

24 Q. There was a reference within the news report to

25 another accidental discharge from 1999. Had you had

2025-05-23 Counciller, David Page 23

1 receiver and -- the slide -- and I put all -- I unloaded

2 it where the handle is. Because, like I said, you fed

3 it down at the -- in the bottom, you didn't have a

4 magazine. So I flipped all them rounds out of it. I

5 went to put it back together and when I did, I -- if I

6 can put my hand up here, I had it here like this, and I

7 went to pull it together to put this pin in to hold it

8 -- to hold it together to show the gunsmiths how -- what

9 -- what the malfunction was on it. And in my

10 carelessness of not thinking -- and, like I said, if you

11 lo -- load it and you let it go forward, it

12 automatically -- one goes up into the barrel. I didn't

13 drop that barrel out and see if there was a round up in

14 that barrel. And when I shoved it together like this,

15 it -- it went back and hit the firing pin, and

16 discharged in my hand. And I don't know if you can see

17 it or not, but it -- it's right here, it's -- that's an

18 exit wound, and that was -- or, excuse me, that was the

19 entrance wound, this is the ex -- ex -- exit wound.

20 And -- and, yeah, that was -- and I knew right after it

21 happened, I -- that was carelessness on my part. I

22 should have -- I should have dropped that barrel down

23 because that was the -- that's the way the gun was

24 designed, and it's nobody's fault but my own.

25 Q. Okay. And in the video, did you see a

2025-05-23 Counciller, David Page 22

1 another accidental discharge in 1999?

2 A. I did, yes.

3 Q. What weapon was involved with that accidental

4 discharge in 1999?

5 A. It was a 380 called a Grendel. It's a -- it's --

6 it's another -- well, that was totally my fault. The

7 gun was defective, the retaining pin that would hold up

8 the receiver to the lower part of the receiver kept --

9 every time you'd shoot it, it would work its way out.

10 And so my son had it for a while, and he told me it was

11 defective and what it was doing, and so I said okay. So

12 I put it in a box, and he was -- I was gonna take it, at

13 the time, to a local gunsmith and have him look at it.

14 Well, it's -- the characteristics of that gun was that

15 you have to open it up, and you didn't have a magazine

16 that went up through the bottom of the handle. You

17 opened it up, and then you fed it down into the handle.

18 And when you let it go, it automatically would put one

19 up -- put a round up into the barrel, up to what we call

20 the pipe. Well, when my son gave it to me, it was in

21 two pieces with the pin. And -- and like I said, I was

22 doing some laundry one night, and I come across that

23 box, and I looked at that gun. I said, yeah, I need to

24 take it up to the local gunsmith and get it fixed. So I

25 see that the handle was separated from the upper

2025-05-23 Counciller, David Page 24

1 depiction -- in the ABC video that we just played, did

2 you see a depiction of your accidental discharge from

3 2014 with the Glock?

4 MR. HAAZ: Object to form.

5 A. Yes. Yes. You're asking me about -- about the

6 video?

7 BY MS. DENNISON:

8 Q. Yes.

9 A. Yeah.

10 Q. And if I share my screen right now, I have the

11 video freeze framed here. Is this you on the -- on the

12 right side of the counter with the hat on?

13 A. Yup, that's me.

14 Q. And this was the gun shop that you were in at the

15 time?

16 A. Yes.

17 Q. Okay. And I'm going to go a little bit further

18 with it to where the discharge was, and I'm going to

19 just put it on without sound. So I'm going to share it

20 -- my screen again. And on the screen, is this the --

21 is this the gun shop that you were in, Wolf's Gun Shop?

22 A. Yes.

23 (Whereupon, a video is being played.)

24 Q. Okay. This video that's playing right now, do

25 you know the video that just played moving up into the

2025-05-23

Counciller, David

Page 25

1 gun shop, was that video that you had taken or that
2 somebody else had taken?

3 A. That was what Ra -- the cameraman from Rafael
4 Sanchez. His cameraman, I think, shot that.

5 Q. Okay.

6 A. If you could notice, I'm in -- I'm in uniform
7 there.

8 Q. Okay. And this -- this portion of video where
9 you're walking into the gun shop, was that a video taken
10 on the day of the incident or at some other time?

11 A. No, that was after the fact.

12 Q. Okay.

13 A. When he was doing the story.

14 Q. So I'm going to keep playing right now.

15 (Whereupon, a video is being played.)

16 Q. Now, I've just stopped this video at 34 seconds.

17 Is this video of you on the day of the accident?

18 A. Yes.

19 Q. Do you know where this video was taken from?

20 A. That -- that was a security camera that Mr. Wolf,
21 the owner of the gun shop, had.

22 Q. Okay. I'm going to go ahead --

23 (Whereupon, a video is being played.)

24 Q. Right here, is he -- are you -- let me strike

25 that. Right here, what we see on the camera, is there a

2025-05-23

Counciller, David

Page 26

1 firearm that's being exchanged between the two of you?

2 A. Yes, he was showing me this other gun that I

3 asked to look at.

4 Q. Okay. I'm going to keep playing it.

5 (Whereupon, a video is being played.)

6 Q. So is this you looking at that other gun?

7 A. Yes.

8 Q. All right. And now we have gone to another video
9 that is not the video of your incident for a little bit.

10 I'm going to stop it again and start playing it at

11 47 seconds.

12 (Whereupon, a video is being played.)

13 Q. Is that you again in this video?

14 A. Yes.

15 Q. And are you looking at that weapon from the store
16 that you wanted to take a look at?

17 A. Yes.

18 Q. Okay. I'm going to hit play.

19 (Whereupon, a video is being played.)

20 Q. Now, I just stopped it at 51 seconds. Do you
21 know what you were doing right there?

22 A. Yes.

23 Q. What were you doing?

24 A. I'm pulling out my weapon to compare it with the
25 other one.

2025-05-23

Counciller, David

Page 27

1 Q. Okay. And then right now, are you putting that
2 back into your holster?

3 A. Yes.

4 Q. And that was the holster that you showed us a
5 moment ago?

6 A. Yes.

7 Q. That was an outside the waistband holster?

8 A. Yes.

9 Q. Okay. So you had it clipped on your right hip?

10 A. Yes.

11 (Whereupon, a video is being played.)

12 Q. And then what are you doing right there?

13 A. I'm -- I got my jacket, and I'm pulling it upward
14 to put it -- to conceal it.

15 (Whereupon, a video is being played.)

16 Q. Okay. And what just happened right there? I've
17 stopped it at 1 minute and 3 seconds into the video.
18 What just happened?

19 A. I felt like when -- when I -- when I put it in my
20 holster, it didn't go in real smoothly, like I had some
21 kind of resistance.

22 Q. Okay. And then what happened?

23 A. Well, then after I -- I felt like it was in
24 there, then I went to pull up on my jacket and -- to
25 conceal it, and it -- and then it discharged as my hand

2025-05-23

Counciller, David

Page 28

1 was there pulling up on the jacket.

2 Q. Okay. Now, there were portions of this video in
3 which there were statements made by you. Do you recall
4 seeing that?

5 A. Pardon?

6 Q. Well, before I get to that, let me ask you, the
7 portions of the video that I just showed you depicting
8 your discharge incident, are those true and accurate
9 representations of what happened when your Glock 23
10 discharged when you were putting it into your holster in
11 January of 2014?

12 MR. HAAZ: Object to form.

13 BY MS. DENNISON:

14 Q. You can answer.

15 A. Yes.

16 Q. Okay. I'm going to stop sharing for a moment.

17 Now, you gave an interview as well; is that
18 correct?

19 A. (No response.)

20 Q. To Rafael Sanchez?

21 A. Yes.

22 Q. Why did you give an interview to Rafael Sanchez
23 of this incident?

24 A. I -- I had a concern like the other officer in
25 that one video. Of course I didn't see that video until

2025-05-23 Counciller, David Page 29

1 later but -- until this -- this program came out, but I
 2 had a concern about if someone gets a -- something stuck
 3 in their trigger guard, whether it be a drawstring or
 4 keys or whatever people might carry and if something can
 5 worm their way into a trigger guard and maybe -- they
 6 might be in Walmart or someplace bending over to pick up
 7 a can of oil off the bottom shelf or something and they
 8 move or something. And then if something like that
 9 happened, if something was in there and it discharged
 10 and the barrel was pointing backwards or something when
 11 -- when you're bent over or something like that, just an
 12 awareness thing to let people know that certain guns,
 13 the way they're designed and everything, they can be
 14 dangerous. And -- and Glocks -- and I -- and I -- I
 15 like Glock, they're good shooters and everything else,
 16 but there's something you need to know about them, and
 17 they're -- they're -- they're (sic) got a dangerous
 18 trigger guard there -- excuse me, a trigger that -- that
 19 that activation switch, slash, safety is there, and if
 20 it gets pushed down somehow with not your finger but
 21 with anything else and it gets flush, then you could
 22 accidentally have it discharge, and it was my concern for
 23 the public.

24 Q. So in your instance as you were holstering that
 25 gun and an object other than your finger got into that

2025-05-23 Counciller, David Page 31

1 enforcement?
 2 A. Yes.
 3 Q. Were you with Connersville Police Department that
 4 entire 34 years?
 5 A. Yes. I spent four years in the military police
 6 back in the 70s.
 7 Q. Four years?
 8 A. Yes.
 9 Q. What branch?
 10 A. United States Army.

11 Q. Thank you for your service.
 12 What had you carried in your four years in
 13 military police?
 14 A. A 1911 .45, and they were -- they were purc --
 15 they were Colts and Ithacas and Remingtons. The
 16 government -- all the 1911s were all -- all the same
 17 everything except they had several manufacturers that
 18 made them, but they were all interchangeable in parts.
 19 MS. DENNISON: All right. Those are all the
 20 questions I have for you, sir. Mr. Haaz will have some
 21 questions for you as well, so I'll turn it over to him.
 22 EXAMINATION
 23 BY MR. HAAZ:
 24 Q. Mr. Counciller, could you hold up that holster
 25 again so I could see the -- the indent on the leather?

2025-05-23 Counciller, David Page 30

1 trigger guard area, that blade or tab trigger on the
 2 Glock did not prevent your gun from discharging; is that
 3 correct?
 4 A. Yes.
 5 MR. HAAZ: Object to form.
 6 BY MS. DENNISON:
 7 Q. I've got to ask that again because you said "yes"
 8 over his "object to form." So I'm just going to ask you
 9 one more time, if you could just pause and let Mr. Haaz
 10 do his object to form, and then do your answer.
 11 MR. HAAZ: I'll tell you what. I'll just
 12 note my objection now, and you can ask him.
 13 MS. DENNISON: Thanks, Sam.
 14 BY MS. DENNISON:
 15 Q. Okay. So during this discharge incident that we
 16 just saw, that tabbed trigger on the Glock pistol did
 17 not prevent a foreign object from discharging your
 18 pistol when your finger wasn't on the trigger; is that
 19 correct?
 20 A. Yes.
 21 Q. Now, you were chief of police at the time of this
 22 incident. How long had you been in law enforcement?
 23 A. I come on in June of 1980.
 24 Q. So in 2014, you were -- in January of 2014, you
 25 were approaching 34 years of service with law

2025-05-23 Counciller, David Page 32

1 A. (Complying.)
 2 Q. Thanks very much. And so there are three
 3 numbers. It looks to me like, and you'll correct me if
 4 I'm wrong, that that holster indicates it's designed for
 5 three Glock models, there are three numbers after Glock,
 6 right?
 7 A. Yes.
 8 MS. DENNISON: Objection to form.
 9 BY MR. HAAZ:
 10 Q. Okay. And what are the numbers?
 11 A. Well, technically that is the same -- same frame
 12 as -- a lot of the Glocks are the same. The calibers
 13 wouldn't be --
 14 Q. Sir, I'm just asking what are the three numbers
 15 that are written on the holster.
 16 A. Well, I'm having a little trouble looking at them
 17 so just give me -- bear with me because I --
 18 Q. Take your time.
 19 A. I -- I can't make 'em out, sir. I'm looking at
 20 them with a magnifying glass -- what's -- what's -- I'm
 21 -- somebody else has got better eyesight than I got.
 22 Okay, 7 -- 77, 22 and a 31. That must be the model
 23 numbers. I'm familiar with the 22.
 24 Q. Okay. So just so I understand, it's -- that
 25 holster says Glock, and then the numbers are 77 and then

2025-05-23 Counciller, David Page 33

1 --

2 A. It's correction to 17 --

3 Q. Okay, so --

4 A. -- 22 and 31.

5 Q. All right. So --

6 A. The 17 is a 9 millimeter, but it's the same

7 frame. And also, just to clear it here, the 22 is -- is

8 the longer version of the 23. The 17 is a -- is --

9 these are like for 9 millimeters and 40s. So the 22 and

10 23 is -- the .40 caliber difference there, they're .40

11 cal. Then the 9 millimeter is 17 and a 19. And so

12 they're the same frame and all this. There's -- also

13 another number is 31, and 31 I don't know -- it -- it's

14 the same frame, but it could be a different length of

15 the barrel or whatever. I don't -- I'm not sure.

16 Q. Sure, okay. And so just so I understand, the

17 numbers that are stamped on the holster you were using

18 that day under the word "Glock" are 17, 22 and 31?

19 A. Yes.

20 Q. And on the date of the incident, you were not

21 carrying a Glock 17, a Glock 22 or a Glock 31?

22 A. No.

23 Q. How long has Connersville PD carried Glock

24 pistols for?

25 A. They started carrying them, I think, about '99,

2025-05-23 Counciller, David Page 35

1 have the hammer down -- it's a double action, a total

2 different feature. And they say safety features, just

3 like the 1911 in the Army back in the day, they talk

4 about, you know, being -- being open, cocked open,

5 that's a safety feature. Down with nothing in it is a

6 safety feature. For instance -- hold on just a second.

7 They're -- they're just a lot safer gun, and so was the

8 .45. They didn't have the little -- little dog ear or

9 the little trigger in the trigger, so to speak.

10 Q. And why is it your opinion that the Beretta was a

11 safer gun than the Glock?

12 A. Because of the safety features it had.

13 Q. Okay. And did the Glock have fewer safety

14 features than the Beretta?

15 A. Yes.

16 Q. And is that because the Glock did not have a

17 manual safety that would prevent the trigger from

18 pulling?

19 MS. DENNISON: Objection to form.

20 A. True, that -- that's -- that's -- yeah, it --

21 they're tot -- two different guns, totally, with the --

22 the whole thing is totally different.

23 BY MR. HAAZ:

24 Q. All right. And if you had had a pistol on the

25 date of the incident that had a manual safety and it was

2025-05-23 Counciller, David Page 34

1 1999.

2 Q. And you're still with Connersville Police

3 Department?

4 A. No, sir. I've been retired for 10 years.

5 Q. Congratulations. So from '99 until about 2014,

6 were you aware of any other unintended discharges with

7 Glocks from trigger contact by a foreign object like

8 yours?

9 A. No.

10 Q. Prior to 1999, what did Connersville PD carry?

11 A. Berettas, 92FS.

12 Q. And am I correct that the Beretta 92 had a manual

13 safety?

14 MS. DENNISON: Objection to form. You can

15 answer.

16 BY MR. HAAZ:

17 Q. Let me rephrase the question because there's an

18 objection.

19 What safeties did the Beretta 92 have, if any?

20 A. They had like five different safety features.

21 They had a -- a lock that would -- would disconnect the

22 trigger totally, and then you could flip the -- flip the

23 back lever and it would -- it would go back into a fire

24 position. You could carry it unloaded -- of course if

25 it's loaded, it could -- have it that way, or you can

2025-05-23 Counciller, David Page 36

1 engaged, do you believe your unintended discharge would

2 have happened?

3 A. No.

4 MS. DENNISON: Object to form.

5 BY MR. HAAZ:

6 Q. Would it have been safer if your Glock pistol had

7 an external manual safety?

8 A. Possibly.

9 Q. If it were engaged?

10 A. Yes.

11 Q. I want to talk briefly about the -- the incident

12 itself. At the -- on the date of the incident, this was

13 January 18th of 2014, were you still working at

14 Connersville Police Department or were you retired?

15 A. What -- could you give that date again?

16 Q. Sure. It looks like from the security camera,

17 the date of this incident was January 18th of 2014.

18 A. Okay.

19 Q. On that day, were you still employed with the

20 Connersville Police Department?

21 A. Yes, I was the police chief.

22 Q. And how long after that did you retire?

23 A. I retired in the end of 2015.

24 Q. Okay. So were you on duty at the time of this

25 incident?

2025-05-23 Counciller, David Page 37

- 1 A. No.
- 2 Q. All right. Were you carrying your duty weapon?
- 3 A. Yes.
- 4 Q. And was the holster you were using that day your
- 5 duty holster or personal holster?
- 6 A. Personal holster.
- 7 Q. All right, so that wasn't issued by the
- 8 Connersville Police Department?
- 9 A. No.
- 10 Q. Where did you buy it?
- 11 A. Honestly, I think I bought it at -- at a place
- 12 called Jenkins. It's a -- in Indianapolis. It's a
- 13 police supply store, and it was a used -- they used to
- 14 have a big table of used leather or camo pouches or
- 15 handcuff pouches. Just whole -- a lot of -- a lot of
- 16 leather and some -- some plastic stuff that -- I think I
- 17 bought it up there at -- a one-time use.
- 18 Q. All right. So fair to say that the holster you
- 19 were using on the date of the incident was not purchased
- 20 from Glock or anything associated with a Glock store or
- 21 --
- 22 A. No, no.
- 23 MS. DENNISON: Objection to form.
- 24 BY MR. HAAZ:
- 25 Q. And is it your understanding that the stamping on

2025-05-23 Counciller, David Page 38

- 1 your leather holster relates to what are the approved
- 2 Glock models for that holster?
- 3 MS. DENNISON: Objection to form.
- 4 A. Yes.
- 5 BY MR. HAAZ:
- 6 Q. Did you see anything on the holster that, in any
- 7 way, suggested that Glock had manufactured that holster?
- 8 A. No, I doubt it.
- 9 MS. DENNISON: Objection. Sorry, we're sort
- 10 of speaking over each other, my apologies. I'm going to
- 11 try to get my objections in faster. If you could just
- 12 take like a quick breath before you begin your answer,
- 13 we can get a clean record, Mr. Counciller. I don't want
- 14 to step over you.
- 15 BY MR. HAAZ:
- 16 Q. You indicated that when -- and I can pull up part
- 17 of the video, and I'll share my screen so we can go
- 18 through it.
- 19 All right. So I'm at about -- if I look at my
- 20 notes, I think the security camera video starts at about
- 21 51 seconds so I'm going to start there and play a little
- 22 bit.
- 23 (Whereupon, a video is being played.)
- 24 Q. All right. So at about 54 seconds, you've taken
- 25 out your Glock 23, and it's in your right hand; would

2025-05-23 Counciller, David Page 39

- 1 you agree?
- 2 A. Yes.
- 3 Q. All right. And then about 56 seconds, you
- 4 re-holster your Glock 23, right?
- 5 A. Yes.
- 6 Q. And you previously testified that when you
- 7 re-holstered it, you felt resistance?
- 8 A. Yes.
- 9 Q. What do you mean?
- 10 A. It just didn't -- I didn't know if I had my
- 11 jacket -- you know, that there was -- sliding down on
- 12 the side. It just -- it wasn't -- just moving in there
- 13 real slow and so I just -- then it -- then it went, it
- 14 went in. And so that's when I -- you know, after that,
- 15 I went to pull my jacket up and put it underneath my
- 16 jacket again, and that's when it discharged.
- 17 Q. When you felt that resistance, it doesn't appear
- 18 on the video that you kind of did a check to see what
- 19 that resistance might be; is that -- is that correct?
- 20 A. Well, I thought I did. You might have to run it